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TREATIES, CONVENTIONS, AND STATE PAPERS

RELATING TO

THE ACQUISITION OF THE SAMOAN ISLANDS.

U. S. Treaties, etc

FOR THE USE OF THE COMMITTEE ON PACIFIC ISLANDS AND
PORTO RICO, UNITED STATES SENATE.

WASHINGTON:
GOVERNMENT PRINTING OFFICE:

1903.

T R E A T Y
BETWEEN
THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF
THE SAMOAN ISLANDS.

FRIENDSHIP AND COMMERCE.

Concluded January 17, 1878.

Ratification advised by Senate, with amendments, January 30, 1878.

Ratified by President February 8, 1878.

Ratified by the Samoan Envoy February 11, 1878.

Ratifications exchanged at Washington February 11, 1878.

Proclaimed February 13, 1878.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty of friendship and commerce between the United States and the Government of the Samoan Islands was concluded and signed by their respective Plenipotentiaries at the city of Washington on the seventeenth day of January, in the year of our Lord one thousand eight hundred and seventy-eight; which Treaty, after having been amended and ratified by the contracting parties, is word for word as follows:

The Government of the United States of America and the Government of the Samoan Islands, being desirous of concluding a treaty of friendship and commerce, the President of the United States has for this purpose conferred full powers upon William M. Evarts, Secretary of State; and the Government of the Samoan Islands has conferred like powers upon MK. Le Mamea, its Envoy Extraordinary to the United States. And the said Plenipotentiaries having exchanged their full powers, which were found to be in due form, have agreed upon the following articles:

ARTICLE I.

There shall be perpetual peace and friendship between the Government of the United States and the Government of the Samoan Islands.

ARTICLE II.

Naval vessels of the United States shall have the privilege of entering and using the port of Pagopago, and establishing therein and on the shores thereof a station for coal and other naval supplies for their naval and commercial marine, and the Samoan Government will hereafter neither exercise nor authorize any jurisdiction within said port adverse to such rights of the United States or restrictive thereof. The same vessels shall also have the privilege of entering other ports of the Samoan Islands. The citizens of the United States shall likewise have free liberty to enter the same ports with their ships and cargoes of whatsoever kind, and to sell the same to any of the inhabitants of those Islands, whether natives or foreigners, or to barter them for the products of the Islands. All such traffic in whatever articles of trade or barter shall be free, except that the trade in fire-arms and munitions of war in the Islands shall be subject to regulations by that Government.

ARTICLE III.

No import or export duty shall be charged on the cargoes of the vessels of the United States entering or clearing from the ports of the Samoan Islands, and no other than a tonnage duty of one half of one per cent. per ton actual measurement shall be charged on the entrance of such vessels.

ARTICLE IV.

All disputes between citizens of the United States in the Samoan Islands, whether relating to civil matters or to offences or crimes, shall be heard and determined by the Consul of the United States at Apia, Samoa, under such regulations and limitations as the United States may provide; and all disputes between citizens of the United States and the people of those Islands shall be heard by that Consul in conjunction with such officer of the Samoan Government as may be designated for that purpose. Crimes and offences in cases where citizens of the United States may be convicted shall be punished according to the laws of their country; and in cases where the people of the Samoan Islands may be convicted, they shall be punished pursuant to Samoan laws and by the authority of that country.

ARTICLE V.

If, unhappily, any differences should have arisen, or shall hereafter arise, between the Samoan Government and any other Government in amity with the United States, the Government of the latter will employ its good offices for the purpose of adjusting those differences upon a satisfactory and solid foundation.

ARTICLE VI.

The Government of Samoa agrees to allow to the Government and citizens of the United States free and equal participation in any privileges that may have been or may hereafter be granted to the Government, citizens, or subjects of any other nation.

ARTICLE VII.

The present treaty shall remain in force for ten years from its date. If neither party shall have given to the other six months previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either party shall have given notice to the other of such intention.

ARTICLE VIII.

The present treaty shall be ratified and the ratifications exchanged as soon as possible.

In faith whereof the Plenipotentiaries have signed and sealed this treaty at Washington, the seventeenth day of January, one thousand eight hundred and seventy eight.

WILLIAM MAXWELL EVARTS. [SEAL.]
MK. LE MAMEA. [SEAL.]

And whereas the said Treaty, as amended, has been duly ratified on both parts, and the respective ratifications of the same were exchanged in the city of Washington on the eleventh day of February, one thousand eight hundred and seventy eight:

Now, therefore, be it known, that I, RUTHERFORD B. HAYES, President of the United States of America, have caused the said Treaty to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this thirteenth day of February, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and second.

[SEAL.]

R. B. HAYES.

By the President:

WM. M. EVARTS,
Secretary of State.

NEUTRALITY AND AUTONOMOUS GOVERNMENT OF SAMOAN ISLANDS.

GENERAL ACT

BY AND BETWEEN

THE UNITED STATES OF AMERICA, THE EMPIRE OF GERMANY, AND THE UNITED
KINGDOM OF GREAT BRITAIN AND IRELAND.

PROVIDING FOR

THE NEUTRALITY AND AUTONOMOUS GOVERNMENT OF THE
SAMOAN ISLANDS.

Concluded at Berlin June 14, 1889.

Ratification advised by the Senate February 4, 1890.

Ratified by the President February 21, 1890.

Ratifications exchanged at Berlin April 12, 1890.

Assented to by Samoa April 19, 1890.

Proclaimed May 21, 1890.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a General Act, providing for the neutrality and autonomous government of the Samoan Islands, was concluded and signed at the City of Berlin, on the fourteenth day of June, eighteen hundred and eighty-nine, by the Plenipotentiaries of the United States of America, of the Empire of Germany and of the United Kingdom of Great Britain and Ireland, the original of which General Act, being in the English language, is word for word as follows:

The President of the United States of America, His Majesty the Emperor of Germany, King of Prussia, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India,

Wishing to provide for the security of the life, property and trade of the citizens and subjects of their respective Governments residing in, or having commercial relations with the Islands of Samoa; and desirous at the same time to avoid all occasions of dissension between their respective Governments and the Government and people of Samoa, while promoting as far as possible the peaceful and orderly civilization of the people of these Islands have resolved, in accordance with the invitation of the Imperial Government of Germany, to resume in Ber-

lin the Conference of Their Plenipotentiaries which was begun in Washington on June 25, 1887; and have named for Their present Plenipotentiaries the following:

The President of the United States of America:

Mr. John A. Kasson,
Mr. William Walter Phelps,
Mr. George H. Bates;

His Majesty the Emperor of Germany, King of Prussia:

Count Bismarck, Minister of State, Secretary of State for Foreign Affairs,
Baron von Holstein, Actual Privy Councillor of Legation,
Dr. Krauel, Privy Councillor of Legation;

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India:

Sir Edward Baldwin Malet, Her Majesty's Ambassador to the Emperor of Germany, King of Prussia,

Charles Stewart Scott, Esquire, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the Swiss Confederation,

Joseph Archer Crowe, Esquire, Her Majesty's Commercial Attaché for Europe,

who, furnished with full powers which have been found in good and due form, have successively considered and adopted:

First; A Declaration respecting the independence and neutrality of the Islands of Samoa, and assuring to their respective citizens and subjects equality of rights in said Islands, and providing for the immediate restoration of peace and order therein.

Second; A Declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this Act.

Third; A Declaration respecting the establishment of a Supreme Court of Justice for Samoa, and defining its jurisdiction.

Fourth; A Declaration respecting titles to land in Samoa, restraining the disposition thereof by natives, and providing for the investigation of claims thereto and for the registration of valid titles.

Fifth; A Declaration respecting the municipal district of Apia, providing a local administration therefor and defining the jurisdiction of the municipal magistrate.

Sixth; A Declaration respecting taxation and revenue in Samoa.

Seventh; A Declaration respecting arms and ammunition, and intoxicating liquors, restraining their sale and use.

Eighth; General Dispositions.

ARTICLE I.

A Declaration respecting the independence and neutrality of the Islands of Samoa, and assuring to the respective citizens and subjects of the Signatory Powers equality of rights in said Islands; and providing for the immediate restoration of peace and order therein.

It is declared that the Islands of Samoa are neutral territory in which the citizens and subjects of the Three Signatory Powers have equal rights of residence, trade and personal protection. The Three Powers recognize the independence of the Samoan Government and the free right of the natives to elect their Chief or King and choose

their form of Government according to their own laws and customs. Neither of the Powers shall exercise any separate control over the Islands or the Government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said Islands, and in view of the difficulties, which would surround an election in the present disordered condition of their Government, that Malietoa Laupepa, who was formerly made and appointed King on the 12th day of July, 1881, and was so recognized by the Three Powers, shall again be so recognized hereafter in the exercise of such authority, unless the Three Powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

ARTICLE II.

A Declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this Act.

Considering that the following provisions of this General Act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the Three Powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this Act shall be inconsistent with any provision of such treaty or treaties, the provisions of this Act shall prevail.

Considering further, that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the Three Powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the Three Governments through the medium of their respective Consuls in Samoa.

ARTICLE III.

A Declaration respecting the establishment of a Supreme Court of Justice for Samoa and defining its jurisdiction.

SECTION 1. A Supreme Court shall be established in Samoa to consist of one Judge, who shall be styled Chief Justice of Samoa, and who shall appoint a Clerk and a Marshal of the Court; and record shall be kept of all orders and decisions made by the Court, or by the Chief Justice in the discharge of any duties imposed on him under this Act. The Clerk and Marshal shall be allowed reasonable fees to be regulated by order of the Court.

SECTION 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the Chief Justice shall be named by the Three Signatory Powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honour, impartiality and justice.

His decision upon questions within his jurisdiction shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination as herein provided. He shall receive an

annual salary of six thousand dollars (\$6,000.00) in gold, or its equivalent, to be paid the first year in equal proportions by the Three Treaty Powers, and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the Three Powers in equal shares.

The powers of the Chief Justice, in case of a vacancy of that office from any cause, shall be exercised by the President of the Municipal Council, until a successor shall be duly appointed and qualified.

SECTION 3. In case either of the four Governments shall at any time have cause of complaint against the Chief Justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and, if in the judgment of such authority there is sufficient cause for his removal, he shall be removed. If the majority of the Three Treaty Powers so request, he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

SECTION 4. The Supreme Court shall have jurisdiction of all questions arising under the provisions of this General Act; and the decision or order of the Court thereon shall be conclusive upon all residents of Samoa. The court shall also have appellate jurisdiction over all Municipal Magistrates and officers.

SECTION 5. The Chief Justice is authorized at his own discretion, and required upon written request of either party litigant, to appoint assessors, one of the nationality of each litigant, to assist the Court, but without voice in the decision.

SECTION 6. In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of King or of any other Chief claiming authority over the Islands; or respecting the validity of the powers which the King or any Chief may claim in the exercise of his office, such question shall not lead to war but shall be presented for decision to the Chief Justice of Samoa, who shall decide it in writing, conformably to the provisions of this Act and to the laws and customs of Samoa not in conflict therewith; and the Signatory Governments will accept and abide by such decision.

SECTION 7. In case any difference shall arise between either of the Treaty Powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the Chief Justice of Samoa, who shall make his decision thereon in writing.

SECTION 8. The Chief Justice may recommend to the Government of Samoa the passage of any law which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the Municipal District and for the collection of taxes without the District.

SECTION 9. Upon the organization of the Supreme Court there shall be transferred to its exclusive jurisdiction

1. All civil suits concerning real property situated in Samoa and all rights affecting the same.

2. All civil suits of any kind between natives and foreigners or between foreigners of different nationalities.

3. All crimes and offences committed by natives against foreigners or committed by such foreigners as are not subject to any con-

sular jurisdiction; subject however to the provisions of section 4 Article V defining the jurisdiction of the Municipal Magistrate of the District of Apia.

SECTION 10. The practice and procedure of Common Law, Equity and Admiralty, as administered in the courts of England, may be—so far as applicable—the practice and procedure of this Court; but the Court may modify such practice and procedure from time to time as shall be required by local circumstances. The Court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of Germany, as the Chief Justice shall decide most appropriate; or, in the case of Native Samoans and other Natives of the South Sea Islands, according to the laws and customs of Samoa.

SECTION 11. Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels; nor shall the Court take any ex post facto or retroactive jurisdiction over crimes or offences committed prior to the organization of the Court.

ARTICLE IV.

A Declaration respecting titles to land in Samoa and restraining the disposition thereof by natives; and providing for the investigation of claims thereto, and for the registration of valid titles.

SECTION 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the Islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage or otherwise shall be prohibited, subject to the following exceptions:

(a) Town lots and lands within the limits of the Municipal District as defined in this Act may be sold or leased by the owner for a just consideration when approved in writing by the Chief Justice of Samoa;

(b) Agricultural lands in the Islands may be leased for a just consideration and with carefully defined boundaries for a term not exceeding forty (40) years when such lease is approved in writing by the Chief Executive Authority of Samoa and by the Chief Justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SECTION 2. In order to adjust and settle all claims by aliens of titles to land or any interest therein in the Islands of Samoa, it is declared that a Commission shall be appointed to consist of three (3) impartial and competent persons, one to be named by each of the Three Treaty Powers; to be assisted by an officer to be styled "Natives' Advocate," who shall be appointed by the Chief-Executive of Samoa with the approval of the Chief Justice of Samoa.

Each Commissioner shall receive during his necessary term of service, a compensation at the rate of three hundred dollars per month and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the Commission for taking evidence and making surveys (such expenses to be approved by the Chief Justice) shall also be paid, one third by each of the Treaty Powers.

The compensation of the Natives' Advocate shall be fixed and paid by the Samoan Government.

Each Commissioner shall be governed by the provisions of this Act; and shall make and subscribe an oath before the Chief Justice that he will faithfully and impartially perform his duty as such Commissioner.

SECTION 3. It shall be the duty of this Commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice for the purpose of examination and registration; and that all claims not so presented will be held invalid and forever barred; but the Chief Justice may allow a reasonable extension of time for the production of such evidence when satisfied that the claimant has after due diligence been unable to produce the same within the period aforesaid. This notice shall be published in Samoa in the German, English and Samoan Languages as directed by the Commission.

The labours of the Commission shall be closed in two years, and sooner if practicable.

SECTION 4. It shall be the duty of the Commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the Court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall especially report

(a) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(b) Whether it was for a sufficient consideration.

(c) The identification of the property affected by such sale or disposition.

SECTION 5. The Commission whenever the case requires it shall endeavour to effect a just and equitable compromise between litigants. They shall also report to the Court whether the alleged title should be recognized and registered or rejected, in whole or in part, as the case may require.

SECTION 6. All disputed claims to land in Samoa shall be reported by the Commission to the Court, together with all the evidence affecting their validity; and the Court shall make final decision thereon in writing, which shall be entered on its record.

Undisputed claims and such as shall be decided valid by the unanimous voice of the Commission shall be confirmed by the Court in proper form in writing, and be entered of record.

SECTION 7. The Court shall make provision for a complete registry of all valid titles to land in the Islands of Samoa which are or may be owned by foreigners.

SECTION 8. All lands acquired before the 28th day of August 1879—being the date of the Anglo-Samoan Treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the Commission, subject to the revision and confirmation of the Court.

SECTION 9. The undisputed possession and continuous cultivation of lands by aliens for ten years or more, shall constitute a valid title by prescription to the lands so cultivated, and an order for the registration of the title thereto may be made.

SECTION 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant to the person or persons entitled thereto of an additional sum to be ascertained by the Commission and approved by the Court as equitable and just.

SECTION 11. All claims to land, or to any interest therein, shall be rejected and held invalid in the following cases:

(a) Claims based upon mere promises to sell, or options to buy.

(b) Where the deed, mortgage or other conveyance contained at the time it was signed no description of the land conveyed sufficiently accurate to enable the Commission to define the boundaries thereof.

(c) Where no consideration is expressed in the conveyance, or if expressed has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(d) Where the conveyance whether sale, mortgage or lease was made upon the consideration of a sale of fire arms or munitions of war, or upon the consideration of intoxicating liquors, contrary to the Samoan law of October 25, 1880, or contrary to the Municipal Regulations of January 1, 1880.

SECTION 12. The Land Commission may at its discretion through the Local Government of the District in which the disputed land is situated appoint a native Commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the Commission to be by them reported to the Court.

ARTICLE V.

A Declaration respecting the Municipal District of Apia, providing a local administration therefor, and defining the jurisdiction of the Municipal Magistrate.

SECTION 1. The Municipal District of Apia is defined as follows: Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of the River Fuluasa; thence following the course of the river upwards to the point at which the Alafuala road crosses said river; thence following the line of said road to the point where it reaches the River Vaisinago; and thence in a straight line to the point of beginning at Vailoa—embracing also the waters of the Harbour of Apia.

SECTION 2. Within the aforesaid District shall be established a Municipal Council, consisting of six members and a President of the Council, who shall also have a vote.

Each member of the Council shall be a resident of the said District and owner of real estate or conductor of a profession or business in said District which is subject to a rate or tax not less in amount than \$5 per ann.

For the purpose of the election of members of the Council, the said District shall be divided into two, or three, electoral districts from

each of which an equal number of Councillors shall be elected by the taxpayers thereof qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the Consular Representatives of the Three Treaty Powers to make the said division into electoral districts as soon as practicable after the signing of this act. In case they fail to agree thereon, the Chief Justice shall define the electoral districts. Subsequent changes in the number of Councillors or the number and location of electoral districts may be provided for by municipal ordinance.

The councillors shall hold their appointment for a term of two years and until their successors shall be elected and qualified.

In the absence of the President the Council may elect a Chairman "pro tempore."

Consular Officers shall not be eligible as Councillors, nor shall Councillors exercise any Consular functions during their term of office.

SECTION 3. The Municipal Council shall have jurisdiction over the Municipal District of Apia so far as necessary to enforce therein the provisions of this Act which are applicable to said District, including the appointment of a Municipal Magistrate and of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said District of person and property, for the assessment and collection of the revenues therein as herein authorized; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said District and not in conflict with this Act, including sanitary and police regulations. They shall establish pilot charges, port dues, quarantine and other regulations of the port of Apia, and may establish a local postal system. They shall also fix the salary of the Municipal Magistrate and establish the fees and charges allowed to other civil officers of the District, excepting Clerk and Marshal of the Supreme Court.

All ordinances, resolutions and regulations passed by this Council before becoming a law shall be referred to the Consular Representatives of the Three Treaty Powers sitting conjointly as a Consular Board, who shall either approve and return such regulations or suggest such amendments as may be unanimously deemed necessary by them.

Should the Consular Board not be unanimous in approving the regulations referred to them, or should the amendments unanimously suggested by the Consular Board not be accepted by a majority of the Municipal Council, then the regulations in question shall be referred for modification and final approval to the Chief Justice of Samoa.

SECTION 4. The Municipal Magistrate shall have exclusive jurisdiction in the first instance over all persons irrespective of nationality in case of infraction of any law, ordinance, or regulation passed by the Municipal Council in accordance with the provisions of this Act, provided that the penalty does not exceed a fine of two hundred dollars or imprisonment for a longer term than 180 days.

In cases where the penalty imposed by the Municipal Magistrate shall exceed a fine of twenty dollars or a term of ten days imprisonment an appeal may be taken to the Supreme Court.

SECTION 5. The President of the Municipal Council shall be a man

of mature years, and of good reputation for honour, justice and impartiality. He shall be agreed upon by the Three Powers; or, failing such agreement, he shall be selected from the nationality of Sweden, The Netherlands, Switzerland, Mexico or Brazil, and nominated by the Chief Executive of the nation from which he is selected, and appointed by the Samoan Government upon certificate of such nomination.

He may act under the joint instruction of the Three Powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this General Act, and shall apply himself to the promotion of the peace, good order and civilization of Samoa. He may advise the Samoan Government when occasion requires, and shall give such advice when requested by the King, but always in accordance with the provisions of this Act, and not to the prejudice of the rights of either of the Treaty Powers.

He shall receive an annual compensation of five thousand dollars (\$5,000.00), to be paid the first year in equal shares by the Three Treaty Powers, and afterward out of that portion of Samoan revenues assigned to the use of the Municipality, upon which his salary shall be the first charge.

He shall be the Receiver and Custodian of the revenues accruing under the provisions of this Act, and shall render quarterly reports of his receipts and disbursement to the King, and to the Municipal Council.

He shall superintend the Harbour and Quarantine regulations, and shall, as the Chief Executive officer be in charge of the administration of the laws and ordinances applicable to the Municipal District of Apia.

SECTION 6. The Chief Justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the local government of the Municipal District, under the provisions of this Act. Each Member of the Municipal Council, including the President, shall, before entering upon his functions, make and subscribe before the Chief Justice an oath, or affirmation that he will well and faithfully perform the duties of his office.

ARTICLE VI.

A Declaration respecting Taxation and Revenue in Samoa.

SECTION 1. The Port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares and merchandise landed on the Islands shall be there entered for examination; but coal and naval stores which either Government has by treaty reserved the right to land at any harbour stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SECTION 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the Islands, the following duties, taxes and charges may be levied and collected, without prejudice to the right of the native government to levy and collect other taxes in its discretion upon the natives of the Islands and their property, and with the consent of the Consuls of the

Signatory Powers upon all property outside the Municipal District, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners.

A.—*Import Duties.*

	Doll. c.
1. On ale and porter and beer per dozen quarts.....	.50
2. On spirits, per gallon.....	2.50
3. On wine except sparkling, per gallon.....	1.00
4. On sparkling wines per gallon.....	1.50
5. On tobacco per lb.....	.50
6. On cigars per lb.....	1.00
7. On sporting arms, each.....	4.00
8. On gunpowder per lb.....	.25
9. Statistical duty on all merchandise and goods imported, except as aforesaid, ad valorem.....	2 p. c.

B.—*Export Duties.*

On copra } ad valorem.....	{	2½ p. c.
On cotton }		1½ p. c.
On coffee }		2 p. c.

C.—*Taxes to be annually levied.*

1. Capitation tax on Samoans and other Pacific Islanders not included under No. 2, per head.....	1.00
2. Capitation tax on colored plantation laborers, other than Samoans, per head.....	2.00
3. On boats, trading and others (excluding native canoes and native boats carrying only the owner's property) each.....	4.00
4. On firearms, each.....	2.00
5. On dwelling houses (not including the dwelling houses of Samoan natives) and on land and houses used for commercial purposes, ad valorem....	1 p. c.
6. Special taxes on traders as follows:	Doll. c.
Class I. On stores of which the monthly sales are \$2,000 or more, each store.....	100.00
Class II. Below \$2,000 and not less than \$1,000.....	48.00
Class III. Below \$1,000 and not less than \$500.....	36.00
Class IV. Below \$500 and not less than \$250.....	24.00
Class V. Below \$250.....	12.00

D.—*Occasional taxes.*

1. On trading vessels exceeding 100 tons burden, calling at Apia, at each call.....	10.00
2. Upon deeds of real estate, to be paid before registration thereof can be made, and, without payment of which, title shall not be held valid, upon the value of the consideration paid.....	½ p. c.
3. Upon other written transfers of property, upon the selling price.....	1 p. c.
Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the proper tax collector.	
4. Unlicensed butchers in Apia shall pay upon their sales.....	1 p. c.

E.—*License taxes.*

No person shall engage as proprietor or manager in any of the following professions or occupations except after having obtained a License therefor, and for such License the following tax shall be paid in advance:

	Doll.
Tavern keeper.....	10 per month.
Attorney, barrister or solicitor.....	60 per annum.
Doctor of medicine or dentistry.....	30 " "
Auctioneer or commission agent.....	40 " "
Baker.....	12 " "
Banks or companies for banking.....	60 " "
Barber.....	6 " "
Blacksmith.....	5 " "

Doll.

Boat-builder	6	per annum.
Butcher	12	" "
Cargo-boat or lighter	6	" "
Carpenter	6	" "
Photographer or artist	12	" "
Engineer	12	" "
" assistants	6	" "
" apprentices	3	" "
Hawker	1	" "
Pilot	24	" "
Printing press	12	" "
Sailmaker	6	" "
Shipbuilder	6	" "
Shoemaker	6	" "
Land surveyor	6	" "
Tailor	6	" "
Waterman	6	" "
Salesmen, book keepers, clerks, paid not less than \$75 a month....	3	" "
Same when paid over \$75 a month	6	" "
White laborers and domestics per head	5	" "
Factory hands and independent workmen	5	" "

SECTION 3. Of the revenues paid into the Treasury the proceeds of the Samoan capitation tax, of the license taxes paid by native Samoans, and of all other taxes which may be collected without the Municipal District, shall be for the use and paid out upon the order of the Samoan Government. The proceeds of the other taxes, which are collected in the Municipal District exclusively, shall be held for the use and paid out upon the order of the Municipal Council to meet the expenses of the Municipal Administration as provided by this Act.

SECTION 4. It is understood that "Dollars" and "Cents," terms of money used in this Act, describe the standard money of the United States of America, or its equivalent in other currencies.

ARTICLE VII.

A declaration respecting arms and ammunition, and intoxicating liquors, restraining their sale and use.

SECTION 1. *Arms and ammunition.* The importation into the Islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited except in the following cases:

(a) Guns and ammunition for sporting purposes, for which written license shall have been previously obtained from the President of the Municipal Council.

(b) Small arms and ammunition carried by travelers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject or other Pacific Islander resident in Samoa is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but all such arms and ammunition shall be entered at the Customs (without payment of duty) and reported by the President of the Municipal Council to the Consuls of the Three Treaty Powers.

The Three Governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of fire-arms in Samoa.

SECTION 2. *Intoxicating Liquors.* No spirituous, vinous or fermented liquors, or intoxicating drinks whatever, shall be sold, given or offered to any native Samoan, or South Sea Islander resident in Samoa, to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this Article shall be established by the Municipal Council for application within its jurisdiction; and by the Samoan Government for all the Islands.

ARTICLE VIII.

General dispositions.

SECTION 1. The provisions of this Act shall continue in force until changed by consent of the Three Powers. Upon the request of either Power after three years from the signature hereof, the Powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this General Act. In the meantime any special amendment may be adopted by the consent of the Three Powers with the adherence of Samoa.

SECTION 2. The present General Act shall be ratified without unnecessary delay, and within the term of ten months from the date of its signature.

In the meantime the Signatory Powers respectively engage themselves to adopt no measure which may be contrary to the dispositions of the said Act.

Each Power further engages itself to give effect in the meantime to all provisions of this Act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this General Act shall be attested by a certificate thereof signed by the King and executed in triplicate, of which one copy shall be delivered to the Consul of each of the Signatory Powers at Apia for immediate transmission to his Government.

Done in triplicate at Berlin this fourteenth day of June, one thousand eight hundred and eighty-nine.

JOHN A. KASSON.
WM. WALTER PHELPS.
GEO. H. BATES.
H. BISMARCK.
HOLSTEIN.
R. KRAUEL.
EDWARD B. MALET.
CHARLES S. SCOTT.
J. A. CROWE.

And whereas the said General Act has been duly ratified by the Governments of the Signatory Powers and the respective ratifications of the same were deposited in the archives of the Imperial

German Government, at the City of Berlin, on the 12th day of April, one thousand, eight hundred and ninety:

And whereas the Government of Samoa has assented to the said General Act, as is attested by a certificate signed in triplicate at Apia on the 19th day of April one thousand eight hundred and ninety by His Majesty Malietoa, King of Samoa;

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, have caused the said General Act to be made public, to the end that the same, and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this 21st day of May, in the [SEAL] year of our Lord one thousand eight hundred and ninety, and of the Independence of the United States the one hundred and fourteenth.

BENJ. HARRISON.

By the President:

JAMES G. BLAINE,
Secretary of State.

[Senate Doc. No. 51, Fifty-sixth Congress, first session.]

SAMOAN COMMISSION.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

IN RESPONSE TO RESOLUTION OF THE SENATE OF DECEMBER 15, 1899, A REPORT FROM THE SECRETARY OF STATE INCLOSING REPORT MADE BY HON. BARTLETT TRIPP, THE MEMBER OF THE SAMOAN COMMISSION ON BEHALF OF THE UNITED STATES OF AMERICA.

DECEMBER 20, 1899.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

To the Senate:

I transmit herewith a report by the Secretary of State, with an accompanying paper, in response to the resolution of the Senate of December 15, 1899, requesting him, "if not inconsistent with the public interests, to send to the Senate the report made by Hon. Bartlett Tripp, the member of the Samoan Commission on behalf of the United States of America."

WILLIAM MCKINLEY.

EXECUTIVE MANSION, *Washington, December 20, 1899.***The PRESIDENT:**

In response to the resolution of the Senate of December 15, 1899, requesting the Secretary of State, "if not inconsistent with the public interests, to send to the Senate the report made by Hon. Bartlett Tripp, the member of the Samoan Commission on behalf of the United States of America," the undersigned, the Secretary of State, has the honor to submit herewith, for transmission to the Senate, a copy of the report called for.

It is not possible at this time to accompany the report with copies of its inclosures, which comprise 26 papers, some of which embrace 50 or more typewritten pages. They are now being copied and will be communicated to the Senate without unnecessary delay.^a

Respectfully submitted.

JOHN HAY.

DEPARTMENT OF STATE,
Washington, December 19, 1899.

^aTransmitted to the Senate January 4, 1900, referred to Committee on Printing; no order to print.

Hon. JOHN HAY,
Secretary of State, Washington, D. C.

SIR: In addition to the joint report of the commission made to the three powers, I have deemed it my duty, under your instructions, to state more elaborately and somewhat more in detail the reasons which have actuated and controlled our action in the determination of the various matters submitted to our consideration.

We were charged with two important and independent duties: First, to restore tranquillity and order and undertake a provisional government of the islands; second, to consider the provisions which might be necessary for the future government of the islands or for the modification of the final act of Berlin, and report our conclusions to the three Governments.

In my dispatches already sent you, as well as in the joint report of the commission, the steps taken which happily resulted in the restoration of tranquillity and order have been detailed somewhat at length, and I shall content myself in the final report with referring only in a general way to the work of disarmament, and the consequent restoration of peace, shall somewhat in detail speak of the causes that led to the unfortunate condition of affairs existing on our arrival, and give some of the reasons for the proposed changes in the final act of Berlin which it is hoped may tend to prevent the recurrence of such condition of affairs in the future.

We arrived in Apia on the 13th of May, 1899, making the seventh of the fleet of war vessels of the three great powers then anchored in that quiet little harbor, three English, three American, and one German—the *Tauranga*, the *Porpoise*, the *Torch*, the *Philadelphia*, the *Brutus*, the *Falke*, and the *Badger*, but not the sail or smoke of a single vessel of commerce was to be seen there or about the coasts of these beautiful islands. On land, patrolling the streets and at every crossing, were soldiers, white and native, demanding the password of resident and stranger. A thousand natives in native uniform, but armed with British rifles and commanded by British officers, paraded past us in response to the salutes from the vessels of war, while as many more natives, armed with every species of warlike implement, in command of native officers, came from their camps to witness our arrival.

At a distance from the town of perhaps 3 miles, and encircling it on all sides, were the native troops of Mataafa, estimated at about 3,000 men, armed with rifles, head knives, spears, and such weapons of war as the natives could command, resting upon their arms behind their lines of improvised fortifications under the terms of the armistice which had been proclaimed by the vessels of war pending the arrival of the commission. But a few days prior the English and American ships had shelled the town, and the people had left the rear and exposed portions and were huddled in the houses along the beach, out of the way of and protected by the guns of the ships which had been directed against the forts and lines of Mataafa surrounding the place. Excitement and alarm prevailed everywhere, and this condition of nervous excitement had reached its height when the commission arrived. The commission was met by no warm greeting from natives, whites, or the officers of the men-of-war. The guns thundered their salutes with cold formality, but there followed a frigidity of greeting

which too plainly betrayed a want of confidence in the purpose or success of the mission on which we had come.

The commanders of the war vessels believed that but for the enforced armistice, under orders from the great powers, the troops of Malietoa Tanu, under British officers and assisted by British and American marines, would have easily conquered the forces of Mataafa, ended the contest, and established Tanu firmly upon his throne. The white people, whose homes had been pillaged and who had sought refuge in Apia under the guns of the men-of-war, despondingly awaited events which might again bring peace, and the inhabitants of the unhappy town, whose houses had been unluckily struck by the shells of a friendly fleet and who sought shelter upon the shore, were about equally divided in their words of censure for the hostile forces of the natives and the vessels of their own fleet. They, too, awaited our arrival with no assured confidence of immediate relief or of permanent peace.

The commission were looked upon as strangers without experience, unacquainted with native manners and customs, and lacking in that ability and education which could restore tranquillity and order or provide for their maintenance in the future. Outside of the noisy salutes fired by the men-of-war the reception of the commission on its arrival in Apia was without demonstration, icy and cold. They had not come, however, for pleasure nor as guests, but to learn and to act, and they set themselves immediately to their task. As I have already informed you, they opened rooms on shore, where for many days they consulted with officers of the Navy, officials of the powers, private citizens, business men, missionaries, and everyone who could inform them of the situation they had come to meet. From every quarter they received discouragement as to any effort at disarming the natives. They then summoned the chiefs themselves of the hostile parties and finally obtained from them the promise to surrender their arms, which was on the 31st of May, 1899, successfully carried out, and up to this time we have taken up from the natives and have in our possession more than 3,400 native guns, in addition to the British rifles—about 700 in number—returned to the British men-of-war. This was the beginning of peace.

There is nothing the native Samoan loves more than his gun. There is nothing he will not part with in its purchase; no sacrifice he will not make for its retention. It occupies the most prominent place in his home, and it is his constant companion upon his journeys abroad, and when he surrendered it to the commission the white man felt and knew that peace was assured, and a feeling of confidence was at once inspired which has never abated, and which has aided the commission in bringing its work to a rapid and successful issue. The naval commanders yielded ready obedience to every request, the whites on shore for the time forgot their national quarrels and their differences of the past, and the natives of both factions vied with each other in anticipation of the commission's requests and in the performance of any services desired. In the prompt and effective disarmament of the two hostile forces lay whatever of success has attended the commission's work. It was an effective and nearly a total disarmament of both factions. Very few guns remain in the hands of the natives, and these are held under such severe penalties that it will perhaps never be known how many were not surrendered.

The commission brought two controlling influences to bear upon the natives in effecting this result. Mataafa had returned as an exile from Jaluit under strict promises of obedience to the laws and government of Samoa, which, if the decision of the chief justice were upheld, had been broken. This was diplomatically placed before him in our oral interviews, and while no promise of immunity was made him, he was given to understand that the action of the three powers toward him would be made largely to depend upon his future conduct and attitude toward the commission and the government they might establish. Mataafa is undoubtedly the most sagacious and influential of all the native chiefs. He grasped the situation at once, proclaimed himself friendly to peace and desirous of doing everything deemed requisite by the commission to that end, and has kept his promises, it is believed, to the letter.

Second. We found that all the arms were private property, each native being the owner of his own gun, and to assure success in what we deemed a vital point the commission promised after the restoration of peace to return the guns or pay to the owners a fair compensation therefor. This was an argument *ad hominem*; it was a stronger argument even than the interested patriotism of Mataafa, but coupled with it became irresistible to the native mind, and almost to a man the Mataafa party surrendered its guns, delivering over 1,800 on the 31st of May, and in all nearly 2,100 to the commission. It was also agreed that the disarmament should be general; that Tanu men as well as Mataafa should surrender their arms, and this was generally done. These guns, as I have already informed you, were then taken by the *Badger* to San Francisco, to be there held until the three powers shall agree upon their disposition.

The commission requested the English and German vessels remaining in the harbor of Apia to take them upon our departure, but these vessels had no room on board and it was not deemed prudent to store these guns on shore, so the only thing left was to bring them with us. I inclose herewith copies of receipts given containing description and number of guns and a valuation made by officers detailed by the captains of English, German, and American men-of-war, which I believe places an average value on the entire lot of about \$12 each; which is, I am inclined to think, a very large valuation, but it was made as a mere precaution and not one by which the powers would be by any means bound.

The disarmament was accomplished without any promises made or inducements offered as to the future government of Samoa, and before the commission had itself arrived at any conclusion or decision as to who was king. As soon as the disarmament had been concluded we set to work to determine that important question. Fortunately, after much discussion, citation of such precedents as were at hand, and the application of legal principles which obtain in the jurisprudence of the courts, we unanimously reached the conclusion that under the provisions of the Berlin treaty the decision of the chief justice was valid and binding. It is true that the decision seems to base the judgment of the court upon the ineligibility of Mataafa under the protocols of the Berlin treaty, but the judgment itself, as found in the docket of the court, a copy of which is herewith inclosed, bases the decision both on the ineligibility of Mataafa and upon the evidence

presented to and considered by the court. Such a judgment, under the express provisions of the treaty, must be held to be valid and binding.

When the record shows that evidence to sustain the issues was presented to the court, and that such issues were so tried and determined upon the evidence adduced, the judgment is necessarily conclusive though the reasoning of the court by which it reaches such conclusion be ever so fallacious. This proposition is so well sustained as elementary law that it needs only to be stated to be admitted, and if any doubt existed whether the determination of the election of a king is so far a judicial one as to come within the elementary principles, the doubt is removed by the very terms of the act itself, which provide that "The signatory governments will accept and abide by such decision" (sec. 6, art. 3). Having reached this conclusion it was unnecessary to attempt to jointly review the causes that led to the necessity for such decision. By the decision itself Tanu was King, and the correctness or incorrectness, the propriety or impropriety of the conduct of those who had favored or opposed his election became immaterial in accomplishing the purposes of our mission, viz, the restoration of peace and proposed changes in the existing government of Samoa.

Our joint action has therefore been confined to these two great objects, leaving each individual of the commission at liberty in his separate report to make such reference to the conduct of individuals and citizens resident in Samoa as he might deem proper. I have not, however, under any instructions, deemed it necessary for me to go further into the inquiry as to the cause that led to hostilities than to consider such facts as were developed in the legitimate determination of the questions submitted for our decision. It is undoubtedly true that the white people in Apia were in sympathy with one or the other of the rival candidates for king. It is also undoubtedly true that the German residents generally were in sympathy with Mataafa and the English and American residents with Tanu; but outside of some idle rumors there was no evidence adduced before the commission that any citizen of any nationality openly took any part in the proceedings that led to open hostilities, or advised measures that led thereto. On the contrary both the Germans—Marquardt and Hufnagel—who had been arrested and kept in confinement for several weeks prior to our arrival for having advised and aided Mataafa in his rebellion against the government, were upon a hearing by the commission immediately discharged, there being no competent evidence against them.

Prior to the decision of the chief justice it is difficult to see why the citizens of one nationality or another might not feel or exhibit a sympathy with the one or the other of the contending parties. Mataafa, though a returned exile and under strict promises to remain at Mulinuu and to maintain obedience to the government, had, before the selection of candidates by the chief justice, in a private letter to H. J. Moors, been declared eligible for the office of King, and while this unofficial letter could in no way affect the subsequent decision, yet it being made public did give to Mataafa a plausible color of right to become such candidate without apparent breach of the promises he had made. I do not, therefore, see how white men or the followers of Mataafa are open to censure on account of sympathy or support given to him prior to the decision declaring Tanu King.

It may have been in bad taste for white men to have espoused the cause of either candidate for native king, but no rule of law or

ethics made it wrong. It was undoubtedly a mistake that Mataafa was permitted by the powers to return to Samoa at the critical time when a king was to be selected. It should have been foreseen that sympathy for the old man, whose exile had come to be a martyrdom in the minds of his relatives and friends, coupled with the magnetic powers and abilities of the man himself, could not fail to make him a powerful, if not a successful, candidate for the place he had once filled. But the powers permitted him to return, the chief justice declared him a proper person to be made king, his admirers espoused his election and declared him king, and undoubtedly by our theory of election, where majorities control, he was the choice of an overwhelming majority of the Samoan people; but in Samoa the select few, and not the people, determine the election of chiefs and kings.

I have given the matter some thought, and have several times heard the theory explained by which the selection of king is finally made "according to the laws and customs of Samoa"—Faa Samoa—but I have only so far grasped the methods employed as to enable me to definitely conclude that, according to such laws and customs, it is possible to elect two kings at the same time, and that the one declared elected may or may not be the choice of the majority of the people themselves. Whether, then, Chief Justice Chambers fairly and honestly found upon the evidence before him that Tanu was elected king in accordance "with the laws and customs of Samoa," as his docket says he did, I do not think any lawyer of the great powers will ever have the patience or ability to determine, and he will, upon a partial investigation of the methods pursued in determining such election, feel inclined rather to excuse His Honor for seeking to base his decision upon the ineligibility of the opposing candidate than to require him to set forth his reasons for a decision based upon the facts—Faa Samoa. In my judgment, then, Mataafa and his supporters are to be blamed, not for what occurred before, but after the rendition of the decision.

The decision declaring Tanu to be King was the law of Samoa, and all who refused obedience to it violated not the decision alone, but the treaty upon which it was based. I need not particularize.

The consuls and all officials of Samoa were bound to recognize Tanu as King. Until annulled by the great powers no consul or official of the great powers was at liberty to deny its binding force. Every act done or word of encouragement given by treaty officials toward approval of resistance to the decision of the court and their subsequent refusal to recognize Tanu as King must be regarded as a breach of treaty rights and a discourtesy toward the other allied powers. It is generally believed by those best informed in Samoan affairs that had the three powers been agreed as to the validity and binding force of the decision, and had the three consuls at once so proclaimed to the native people, the war might have been avoided and peace, for the time at least, maintained. Whether this be true or not, I am quite convinced that the natives were informed that the powers were not agreed and that this fact encouraged them to active and prompt resistance.

It is not improbable, however, that war would have come at last, for, according to "Faa Samoa," he only can be King who can maintain the title by force of arms. The contest between the forces of Mataafa and Tanu in the first instance was a brief one. In less than twenty-four hours the entire force of Tanu was made prisoners and disarmed or

driven to its boats and on board the men-of-war. The victory was decisive and almost bloodless. This followed so suddenly and so immediately the decision that it seemed rather its resultant than a revolution against it. Apia and the people yielded to the inevitable, and the consuls of the powers subscribed allegiance to the provisional government, whose creation and existence rests rather in rumor than by record and facts. It was, however, a submission to superior force, and the Mataafa faction, so far as the natives were concerned, was in control. The white officials will never be able to agree as to what the provisional government was or what share, if any, the different nations took therein. Whatever trace of it existed at the time the British and American forces ceased fire upon the town had disappeared when the commissioners themselves arrived. Mataafa and his troops were many miles away; Tanu, as King, was holding his court at Mulinuu, and where military law was not supreme the old officials of the Government were exercising the functions of their offices. The provisional government was at an end. If it had any existence in fact it lives only in the memory of the past, so that we were by the shells of British and American guns relieved from some difficult questions of international law that might otherwise have arisen had we found it de facto the Government of Samoa.

I do not deem it part of my duty to go into the question of the origin and termination of this "provisional government" at length. It was one of those evanescent, kaleidoscopic transitions of the kind of government of which the history of Samoa has furnished many unique examples in the past. It must be admitted that under the view the commission has taken the provisional government was the result of a victorious revolt against the lawful government; its leaders were revolutionists, its officers in the eye of the law were rebels, and the consuls, who assumed to act for their Governments, in yielding obedience thereto were acting without the pale of their authority, and until ratified by their Governments their acts were null and void. I shall not argue the question whether a majority or all the consuls acting together could authorize the naval authorities to shell the camps of Mataafa and break up the provisional government itself.

I have always maintained the opinion that whenever the consuls under the Berlin treaty were required to act that a unanimity was not required except in the cases therein enumerated. "The mention of the one is an exclusion of the other," and when the framers of the Berlin treaty chose to enumerate certain cases in which unanimity of action was required, they declared by implication that in all other cases a majority of the board was authorized to act. I do not think, however, that the admiral and other naval commanders in the harbor at Apia were at all subject to the unanimous or majority control of the consuls, except in so far as they may have been specifically instructed by their Governments. The naval commanders' general instructions would have been sufficient to authorize them to fire upon armed rebels in revolt against their lawful government. It would seem to me that Admiral Kautz and the English commanders, acting under their general instructions, were authorized to put down an armed rebellion against the lawful government of the three powers and to sustain by force of arms the decision of its courts; and if their private instructions put them under control of the consuls as to how and when display of force was to be employed, I am still of opinion that such instruc-

tions were not violated by their obeying the orders of a majority of them. I expressly disclaim passing upon these questions other than in a general way, and I must claim that what is here said shall not be regarded as an opinion or report upon these questions made after an investigation of the facts. I desire them to be considered merely as a report upon questions arising incidental to the matters left to our jurisdiction and control.

After the commission had reached the conclusion that Tanu was King it was set about to place the wheels of a provisional government in motion. Complaints were frequent and urgent from people of all classes, requesting to be relieved from military rule, that sentries be removed, and that civil government be again restored. The city government had lapsed. The councilmen in one of the wards had failed to qualify, and in another were illegally elected, and as no quorum of the former government could be obtained, the commission itself had to appoint registers and call an election to fill such vacancies. They then installed Dr. Solf as president of the council, withdrew the sentries, and placed the town under a city government and civil law. In the meantime we had canvassed the question of a provisional and permanent government for the islands. The history of Samoa showed that the title of King was of very recent origin and extended no further back than to the grandfather of Tanumafili, and that his father was really the first to be crowned and anointed King.

The title of King is said to have originated with the missionaries, who conceived the idea to unite the islands under one ruler, and thereby to make a stronger and better Government. On the contrary, it became weaker, there being no hereditary King. The most powerful chiefs of the most aristocratic families and tribes claimed the right of succession and exercised the right of rebellion during every reign. No King was able to maintain his authority over all of the districts at the same time. Some of the more powerful chiefs were continually in rebellion. The father of Tanu was twice deposed, and three Kings assumed the title intermediate his reign as King—Malietoa, Talavou, Tamasese, and Mataafa—and the process of the King, instead of commanding respect, was mocked at and jeered, and could not be enforced in any of the larger districts of the so-called Kingdom of Samoa during his entire reign. This was not on some occasion of revolt, but usual and continuous. I am informed by Chief Justice Chambers that during his entire stay in Samoa the writs of his court running in the name of Malietoa Laupepa, as King, could not be enforced in several large districts of Samoa, and this in time of apparent peace. The title of King was an empty honor; the real power was in the district chief, and the native Government existed there.

Upon consulting with those best acquainted with Samoan affairs, we did not find a man not influenced by selfish interests who was not pronounced in favor of abolishing the office of King. It was not only an empty honor, but a bauble to be contended for by powerful chiefs, a sort of Samoan prize not to be retained by the victor, but to be submitted to new contests and won afresh upon the field of honor. Instead of an element of strength it was an element of weakness and a cause of war and insurrection, and upon consulting with the older and wiser chiefs we were surprised to find that they, too, believed it better that the office should be abolished, that the districts should govern themselves, and that the white man should make laws for Samoa. We be-

came unanimous that the office of King should be abolished, so far as our recommendation could effect such result, and so informed Tanu, the King. He advised with his friends and subsequently informed the commission that he was yet a boy at school and desired to complete the course of study he had begun, and in oral conversation he further explained that, should the great powers agree with the commission to abolish the office of King in the formation of a permanent government, his temporary holding of the position became a worthless title, and did the powers permit the title in the future to be retained, it would be one which could not peaceably be held. It came to him not by descent, but by a decision which many of the great chiefs declared in violation of Samoan law and customs; he could not hope to hold it except by war, and his life would be spent, like that of his father, in anxiety upon the throne and in the loneliness of exile, and he preferred the hereditary title of district chief to the unmeaning title of Samoan King. His letter of resignation, in which he refers to the resumption of his studies, will be found among the inclosures herewith.

Upon the acceptance of the resignation of Tanu, the executive power of the provisional government was placed in the hands of the three consuls, with Dr. Solf as adviser, and a proclamation issued to that effect. The provisional government being now in force, the time of the commission was directed to the question of a permanent government and the changes to be recommended in the final act of Berlin. The act itself was the unique work of skillful men, and had it not fallen into the hands of strict constructionists, would undoubtedly have served well the purpose of its creation. The same forces which robbed it of the elasticity of construction and expansion of provision still existed in Samoa, and might wreck any form of tripartite government that could be conceived. If such a form of government be possible, and I use the word with full understanding of the doubt it implies, it can be made enduring and permanent only by being made applicable to all classes of people through the same agencies of administration. The foreign population to be governed should, as far as possible, be made homogeneous, and one set of officials should administer the same law in all Samoa.

The question of nationality must be lost sight of in the administration of government, and the government should be made autonomous, as its preamble declares, by an administration which treats citizens of every nationality alike. To aid in carrying out this principle of government we have recommended the abolition of that judicial extra-[terri]toriality heretofore existing in the consuls. The exercise of this right had become a weapon of hostility rather than a shield of defense. The consulate had become an asylum from crime rather than a temple of justice, and the criminal had come to regard his consul as one who would protect and shield him from the courts rather than a judge who would punish him for his crimes. Not only had the consulate thus become a refuge for criminals, but the courts were continually harassed with questions of jurisdiction, which were not always limited to the courts of Samoa, for not infrequently they found their way to the powers themselves and became unpleasant subjects of international complication.

Scarcely a case arose in the courts that this vexed question did not present itself in some form, and the assertion of consular jurisdiction took on at times such an air of superior power as to create a counter

resistance of the court in order to maintain a dignity of demeanor in contrast with the humiliation sought to be imposed. These were some of the evils of the consular extra-territorial jurisdiction. On the other hand, the good effects expected from its exercise did not result. Such judicial powers are never exercised by consuls except in those countries like Turkey, China, etc., where, by reason of religious prejudice or incapacity of native courts foreigners can not with safety to liberty and property submit to their jurisdiction. Neither of the reasons obtain in Samoa. Nearly all the inhabitants are Christians, as will be seen by reports of missionaries herewith inclosed, which show that of the 35,000 estimated population of these islands the Protestants claim about 27,000 and the Roman Catholics 7,000. The courts, too, having foreign jurisdiction are not native but white. The chief justice is selected by the powers and has jurisdiction not only in cases where foreigners are parties, but in all cases where foreigner and native are parties.

It would seem that no good reason could exist why a court that has jurisdiction to try cases between Englishmen and Americans might not be qualified to try cases between Americans themselves, nor why it should not be authorized to try and punish an American as well as a Norwegian or a person of another nationality in a country declared to be autonomous and independent, and where all men are supposed to be free and equal. It developed also upon inquiry that this consular jurisdiction was unpopular with the people themselves. The consuls even condemned it, and we found but one man, an attorney who had shown some skill in entangling the courts upon this vexed question, who attempted to defend such jurisdiction. No reason, therefore, seeming to exist for further insistence upon the rule, and its exercise having been found to be prolific of the evils sought to be controlled, we have recommended the abolition of this extra[terri]torial jurisdiction heretofore exercised by the consuls, and have conferred such jurisdiction upon the chief justice; and have at the same time, to relieve his court and to expedite the hearing of petty cases, enlarged the jurisdiction of the municipal magistrate so as to allow him to try civil cases involving an amount not exceeding \$50, and misdemeanors where the penalty does not exceed a fine of \$200 or one hundred and eighty days' imprisonment, with right of limited appeal to the supreme court.

We have also made a few specifications of the powers of the courts to issue certain writs, such as mandamus, injunction; etc., which would probably exist without enumeration, and have retained the former provision of the Berlin treaty making the decisions of the chief justice final, adding, however, a clause which reserves to the powers the right to annul all decisions involving executive and administrative rights or principles of international law. This clause relieves the powers from the annoyance of appeals by litigants, which might be frequent and annoying, and at the same time saves to them the right of annulment in all cases where the decision is not strictly judicial. We have also extended the jurisdiction of the supreme court to felonies committed by natives against each other, upon the advice of missionaries and those better versed in Samoan laws and usages. It is believed that such jurisdiction, though exercised only in extreme cases, will have a beneficial effect in restraining the commission of crime and advancing the condition of morality among the natives themselves.

Much complaint existed also, among American and English settlers especially, that the Berlin act contained no provision for a trial by jury, which citizens of those nations regard as one of their dearest rights. We found, however, that it would be quite impracticable to provide for a jury of twelve men where perhaps not one hundred men qualified for jury duty could be found on the entire islands, and we therefore have compromised the matter by providing for a jury of three to be allowed in the discretion of the court in civil cases and as an absolute right in criminal cases. This in lieu of the provision for assessors, which we were informed was a dead letter, it never having been attempted to be used but once since the organization of the court, and which then proved a failure. With these exceptions the powers of the supreme court have not been changed. This court has proved to be the strongest and best part of the mechanism of the Berlin treaty, and we have felt it proper, therefore, to strengthen rather than to weaken its powers.

In place of the king and his advisers we have provided an executive officer whom we have designated as an administrator. To the administrator, who it is presumed will be an upright and experienced man of affairs, we have given real powers of administration. He will be the center and focus of the Samoan government, a real executive, and in reply to any objection which may be urged that we have established a protectorate instead of a Samoan government, we have at the request of the natives themselves taken away the prop from the king—the white adviser—who was expected and intended to be the actual king and given them a real executive in his place—replaced the shadow with the object itself.

It can with no more propriety be urged that an assault has been made upon the independence of Samoa by furnishing it with an able executive than where the native court was replaced by the supreme court, and what has proved such a necessity and bulwark of strength in the judicial department it is believed will be developed in the executive by the substitution of the administrator for the king and his white advisor, and the one strikes no more at the independence of Samoa or assumes a greater protectorate power than the other.

The question becomes one of good government and not a mere dream of the sentimentalist, the humanitarian, or the charlatan. If a government is to be maintained in these islands it must be a strong, simple, and economical one. It must be so strong as to be respected and feared, so simple as to be understood by native and white, and so economical as to impose neither too heavy a burden upon the people nor the powers that must be responsible for its failure or success. Along these lines, without sentiment or imagery of thought, we have centered in the administrator and his council such power and simplicity of action as will give, in our judgment, to it the strength and elasticity which, under the strict construction of the Berlin treaty, robbed the government of the powers intended to be conferred. Small powers of legislation are given to the council, well guarded in their enumeration and in the reservation which gives to the powers entire right to modify or annul. In this way the treaty, instead of being a codification of law, assumes more the character of a written constitution which both grants and limits the powers of the executive, legislative, and judicial departments of the government, and provides thereby an elasticity of

action, with sufficient checks and balances to guard the safety of its action without interfering with its strength or economy.

The white man has provided a white man's government over the whites, and so far over the natives as to insure peace and to protect the business relations existing between native and white men upon these islands. The natives in their intercourse with each other are governed by the laws and customs of Samoa as administered by the district chiefs. We have preserved all there has ever been of native government, and given to the central government simplicity and strength which it is believed will insure stability and permanence of character. The administrator and chief justice are given such salaries as is believed will command respectability, and the office of councilor is left to be filled by each nation at such salary as may be deemed adequate and just. Provision is also made for their acting in the capacity of collectors of customs, treasurer, attorney-general, and such other executive offices as may be found expedient and proper, it being clearly shown that their employment in the rôle of councilors will not be so onerous but that a large share of the executive work of the islands can be performed by them; and if desired no objection is seen to their acting in the additional capacities of consuls or consular agents of the different powers, and in this way the salaries now paid for king, collector of customs, etc., would be saved and a fair salary could be afforded by the powers to command for these places such ability as their importance demands.

As to the native government, we have given it especial study. We visited every island except Manua, the extreme eastern islands of the group, which have but few inhabitants and are almost inaccessible except during the smoothest sea. We held meetings in every district at which nearly every chief and native were present. We discussed with them their theories of government. We drank Kava and ate with them. We listened to their speeches. We talked with their chiefs and explained our own theories of the central and native governments and we found them not only quite unanimous but at the last enthusiastic in favor of the central government as contained in the amendments proposed. The form of district government is quite their own and was agreed upon after our tour of the islands and is a consensus of the views of the chiefs and those most familiar with native laws and customs. Our aim has been to leave to the native the largest freedom and liberty within the districts and to teach him self-government through the native assembly which meets each year at Apia, whose teachings will disseminate and make its impressions felt in the district governments, until in time the native will be able to take his part in the government of the islands with an intelligence equal, if not superior, to that of the white man now there; but at present he is unfitted for extended self-government, and no one appreciates this fact better than himself. He is anxious to learn. He wants a white man's government.

Thanks to the missionaries, the great bulk of the natives and nearly every chief can read and write and are adopting the habits of civilization with great alacrity. They are entirely satisfied with the form of government we have proposed, and, while we have not permitted our draft to be published or read until it shall have been presented to our Governments, we have taken occasion at these private meetings with chiefs, at which no white man or reporter was permitted to be present,

to explain its principles at length, and on the 14th of July, just before our departure, we called the chiefs together at Apia from all the islands, about 450 being present, every high chief in fact except Mataafa and Tanu, the former being kept away by sickness and the latter because it was not deemed proper for him to be present during Mataafa's absence. To these chiefs we fully explained the proposed government and were surprised to find that the Mataafa chiefs had anticipated us by themselves proposing in brief a form of government much our own which they had prepared, and which was read by one of the Mataafa chiefs and will be found among the inclosures herewith submitted. At the close of the meeting, so harmonious were the views of all the chiefs, both of the Mataafa and Tanu factions, that it was agreed that 13 chiefs from either side should be selected to sign the proposed form of government to show to the powers that it met with their entire approval. Accordingly the 26 chiefs, 13 of the Mataafa and 13 of the Tanu party, came on board the *Badger* on the morning of July 15, 1899, and signed the proposed plan of government, and their original signatures will be found appended to the draft of government forming a part of our joint report, which is herewith submitted.

In the form of government presented we have endeavored, as far as possible, to preserve the symmetry and theory of the Berlin treaty. The provisions as to reservation of lands to the native people, the principle of taxation, and the restriction as to introduction of firearms and intoxicating liquors have all been preserved and in some respects emphasized. The courts, as I have already stated, are retained and their jurisdiction enlarged, and the executive power has been changed only by abolishing the puppet king and creating out of his white adviser a real executive, as the adviser was expected to be. In short, the only change in principle has been to take away the consular judicial powers and confer them upon the chief justice, and to give elasticity to the act by conferring such legislative powers as would seem to be impossible to be exercised by the powers themselves, or which results could not be embraced in an act so brief as the treaty itself. We have endeavored, in the short time at our command, to ascertain the weaknesses of the treaty in its administration, to learn the requirements of the native people, and to suggest such changes as, it is hoped, will best retrieve the errors of the past and maintain a strong and stable government in future.

I am by no means sanguine that the form proposed will produce the effect desired, for while I have no doubt that any one of the great powers could easily govern these islands in the manner proposed, I fear their ability to do so when acting together, and I can not forbear to impress upon my Government not only the propriety but the necessity of dissolving this partnership of nations, which has no precedent for its creation nor reason for its continuance. It will produce national jealousies and endanger the friendly relations that have so long existed between the powers. Considerations of national welfare should terminate this unnatural alliance at the earliest moment that it can be done with proper regard for the rights and interests of the powers concerned. Should the plan of government recommended by the commission meet with approval, I can not urge too strongly that it be put into operation at the earliest moment. The provisional government is now in the hands of the consuls. We have delegated to them all the

executive power vested in the commission so far as we were able to do so under our power to establish a provisional government.

A copy of our letter of authority and instructions will be found among the inclosures herewith submitted. Mr. Hamilton Hunter represents England, Luther W. Osborn the United States, and Mr. Grunow, formerly vice-consul, the Empire of Germany. Mr. Hunter is a man of considerable experience in the Pacific islands and has some knowledge of native character. Mr. Osborn has been "through the war," but seems unobjectionable to all parties. He is a good lawyer and his knowledge, derived from past experience, will be of service in the future. Mr. Grunow is a young man, but of some experience and ability. He, too, was in Apia during the recent troubles, and brings with him into his office as consul not only recollections, but some prejudices also as to the past. It is generally better that new men fill these places, for while they may lack in experience, they are free from bias and prejudice fostered and strengthened by recent events which often color their action and lessen their influence.

Chief Justice Chambers expressed his desire to return home immediately on my arrival. I did not object, but deemed his action a wise one. The judge is a good lawyer and an honest man, but it would have taken years for him to have overcome the prejudice which his decision raised against him among the native people. Mr. Osborn has been temporarily appointed to fill his place, but his duties as consul, to which have been added the executive duties of the government, require that the place of chief justice should be immediately filled. Dr. Solf, president of the municipality, acts as adviser to the consuls under the provisional government as he did to the King under the former government. The commissioners are not satisfied with the form of government we were obliged to leave provisionally in force. We would have preferred to have assimilated it more to the form of the permanent government proposed, but with the material at hand the members of the commission were wholly unable to agree upon a person for administrator, and we leave the matter to the powers, trusting they will recognize the fact that the present government must be treated as a provisional one in the literal sense, and that immediate action should be taken to replace it with one of greater strength and influence.

The Samoans are not a difficult people to govern; they are a volatile, emotional people; they are suddenly angered, but harbor no resentment or revenge; their reconciliation is as rapid and demonstrative as their anger is sudden and violent. They require a prompt and energetic government rather than a strong and powerful one. A few small vessels with rapid-fire guns can reach every village of the islands, and a few detachments of soldiers for police duty on shore would maintain peace everywhere. The islands are in shape not unlike that of the hat; the interior, representing the crown, is mountainous and uninhabited; the rim, or shore, is covered with cocoanut palms, breadfruit, pineapples, bananas, and all tropical fruits which furnish the native food. Around this rim or shore line are situated all the villages and homes of the native people, so that the islands are easy to patrol on shore or by sea, and a government in which the native has confidence and is taught to respect can be administered with small display of force and little expense. Battle ships and large cruisers are worthless in these waters. The harbors are small and difficult of access, but vessels not

exceeding 1,500 tonnage—better 1,000—can enter and anchor in most of the harbors of the islands. Our vessel, the *Badger*, we found too large for the island trip, and we accepted the kind offer of the *Tutanekai*, a New Zealand vessel of about 1,000 tons, which took us around Savaii, Apolima, Manono, and a portion of the island of Upolu, anchoring in places where larger vessels would not dare approach.

These islands have been described so many times in the very able reports of consuls and former commissioners that I shall not attempt to go over the ground they have so well and so fully covered. They are beautiful in appearance, and the climate in winter—our summer at the North—is indeed charming. The level and mountain land is covered with trees and timber of every variety. Unlike the Hawaiian Islands, the mountains are green to the very tops. But little is known of the interior; beautiful waterfalls are seen from the harbor of Apia, said to be more than 400 feet in height, which are still inaccessible for want of roads. Virgin forests of splendid timber are yet untouched by native hand. The finest tropical fruits of the world, including oranges, pineapples, bananas, mangoes, cocoanuts, and breadfruit grow wild and in abundance. Outside of the great German and a few other plantations everything is in a state of nature. The soil is fertile, but rocky, and fitted only for growth of shrubs and trees. The soil is decomposed lava and scoria. Much of the lava rock is still undecomposed, so that cultivation in the ordinary manner is impracticable and quite impossible. Such implements as plows, drags, drills, and cultivators are useless here, and indeed unknown.

Trees of all kinds throw down their roots into the loose, porous lava rock and a kind of low vine in the forest of cocoanut and other trees creeps over the low-lying rock, so that until disturbed the ground appears level and not unlike the dark soil of our Western land; but in most parts of the islands, when disturbed, it is found to be a broken mass of lava rock. Where it has been attempted to be removed in constructing roads through one of the German plantations at the western end of Upolu, and where we spent a very pleasant Sunday, the rock removed from the roadway was sufficient in amount to construct a high wall on either side. The cultivation of cotton was at one time attempted by planting in hills from which the rock was removed, but the labor was found too great, and it has been practically abandoned. Shrubs of all kinds thrive in the lava rock. Coffee, it is believed, will yet be cultivated with success. Cocoa thrives, and the plantations are being largely increased. Copra, the product of the cocoanut, is still the principal article of export. All the tropical fruits which grow here in their wild state improve much by cultivation.

The natives are not inclined to labor, and nearly all the laborers on the great plantations are brought from New Guinea and the Solomon Islands. It is believed that as the native becomes better educated and more and more adopts the habits of civilization he will devote his attention more to the raising of copra, cocoa, and other commercial products, and in this way his time will be better occupied than in the discussion of native politics and the propagation of island or tribal war. The greatest impediment to civilized progress has hitherto been the communal character of property. The land of the natives and much of their personal property is held in common, and their government is largely patriarchal. Their chiefs are heads of one great family. If one member of the family is more successful than another the rest

claim as a right, which he is not at liberty to deny, that he should share with them. There is therefore no incentive to individual activity. Punishments by fine are paid by the tribe, so that the only real punishment which a native fears is imprisonment with hard labor. The latter is not only a disgrace, but a real punishment. The result is that most misdemeanors in Samoa are punished by hard labor. The missionaries and other humanitarians here are using every effort to induce the natives to abandon this communal plan and to become, like the whites, individuals and men. Some laws looking to the allotment of lands, retaining still the prohibition upon alienation, would go far in aid of well-directed efforts to overcome this obstruction to native progress.

The importance of the Samoan Islands, however, lies not so much in their commercial advantage as in their geographical location. They are in the great future pathway of commerce, and their importance in this respect can not be overestimated. Savaii, the largest group, has no good harbors. Upolu has several small harbors and open roadsteads, for most of the harbors here are mere openings in the coral reef. This reef extends around each island at a width varying from a few feet or rods to several miles. Wherever the fresh water comes down to the sea the coral insect has abandoned his work, and here are found the harbors of the islands. If the stream is small the opening in the reef and harbor is also small. Generally the projecting headlands near the mouth of the stream, if any, are low, so that these so-called harbors are mere open roadsteads. Some of these are too deep for anchorage, others too small, so that of all these reef openings but few can be called harbors. We spent several days at Pago-Pago. This unlike the other reef openings is a landlocked harbor, a beautiful inland harbor. It resembles one of those picturesque Swiss lakes. The mountains on every side are precipitous, and in places perpendicular, and the level land around the water's edge is very narrow and small in extent.

Baron Sternburg, my colleague, kindly made me a set of drawings giving a panorama of the entire harbor, which are wonderfully accurate, and I had them photographed (taking the precaution to bring away the negatives), and I inclose you a set corresponding with a set sent also to the Navy Department. You will see marked thereon the place occupied by our projected wharf and coal sheds. The contractors were there and were at work at the time of our visit. I can not impress upon my Government too strongly the necessity of its undivided possession of this harbor. It is the only one worthy of the name in the islands. Tangeloa, on the island of Upolu, the only other harbor, has an open mouth and is too deep for anchorage. In Pago-Pago, after entering the inner harbor, it is as calm as an inland lake. Not a ripple was visible upon the face of the bay, although a storm was raging at sea and we could hear the waves roaring and the surf breaking in the outer harbor about 2 miles away.

The harbor and the entire island should be under our individual control. A coaling station within the harbor or the harbor alone would be of little value. The modern coaling station must be fortified, and to do this the adjoining bay of Leone must be had with its connecting peninsula. In short, the whole island must be had, and it would in my judgment be a wise policy to give our allies and the world to be informed that our interests in Samoa center most closely about Pago-Pago and the island of Tutuila, and that we should not look with favor

upon any effort on the part of any nation to interfere with our rights or make them less available for future requirements of the nation by curtailment of our interests in the harbor or in the island itself. Negotiations between England and Germany have been several times had to exchange the undivided interests of the one for sole possession of other island properties. So far as I am informed the proposition has been only to surrender to Great Britain the German interests. This Germany will probably decline to do so long as the German firm retains its interests in the large German plantations, but recently it is said large offers have been made by British capitalists for these properties. Should this result be brought about it would undoubtedly follow that Germany would exchange her Samoan interests for some British island interests, and the United States, which has so long been the buffer power between these two great nations, would be in a position to ask for a severance of the joint rule we have so long maintained contrary to all our former national policies and traditions.

Numerous claims against the three powers have been filed with us for reference to our Governments, and I append to this report an index giving name of claimant, the character and amount of claim, and submit herewith as inclosures the claims so filed. We have had no opportunity to examine such claims further than to learn that they grew out of the war between the native factions. We therefore submit them for your consideration without recommendation.

In our consultations with missionaries, officials, and other residents of Samoa as to various questions in reference to the form of government, the resources of the islands, the religious and educational condition of the natives, we have asked such individuals to furnish us with memoranda of the information so given. Many of them have done so, and some of these memoranda, which contain data and information of value, I have deemed it proper to inclose, and they will accordingly be found among the inclosures herewith submitted.

Not having the opportunity of seeing Mataafa and Tanu in person at the time of our departure, we deemed it a wise precaution to address to each of them a letter from the commission direct, advising them of the provisional government which we were leaving in charge of the affairs of the islands, acknowledging the valuable services they each had rendered the commission in its efforts to promote peace and establish a stable and permanent government, and reminding them of their promises of obedience and allegiance to the government so established. These letters, copies of which are herewith inclosed, were left with the consuls, with instructions that they should be translated into Samoan and transmitted to Mataafa and Tanu, as directed. It will be observed that no promises have at any time been held out to Mataafa of immunity or otherwise further than that he may have the right to expect, should his future action continue to be one of loyalty to the government and should he continue to use his great influence with the native Samoans in behalf of peace an honest allegiance to the government, that he may be permitted to spend the remainder of his days on his native island and with his family and friends.

Mataafa is a strong factor in the politics of Samoa, an all-powerful element in determining the question of peace or war. Should he keep his promises in the future the government will be benefited by his presence, otherwise he should be removed at once. I have every reason to believe that Mataafa will, in future, honestly and faithfully

keep every promise he has made. He is an old man, in poor health, and over his own signature he has declared "there should be no more king." His ambition is at an end, and the desire to die at home, and not in exile, he knows can be gratified only by the strict observance of every promise of obedience and loyalty that he has made. Tanu is but a child, and does not promise any development of strength for good or evil in the immediate future, and unless he be made the tool of some designing white man, no fears are to be entertained of his hostile action against the provisional or permanent government of the islands.

Trusting that the peace we have been able to establish may be permanent and the changes in the form of government we have proposed may meet in some degree with your approval,

I remain, with the highest consideration,

Your obedient servant,

BARTLETT TRIPP.

AUGUST 7, 1899.

List of inclosures.

No. 1. Certified copy of docket entry in the Kingship case before Chief Justice Chambers.

No. 2. Statement by United States Consul-General Osborn of recent events in Samoa.

No. 3. Promemoria regarding the government of Samoa, by O. Riedel, manager of the Deutsche Handels Gasellschaft.

No. 4. Rear-Admiral Kautz to the commission, dated May 15, 1899.

No. 5. Resignation of Malietoa Tanumafili as King of Samoa.

No. 6. Samoan original and English translation of Mataafa's address read at Muli-nuu meeting.

No. 7. Certificate of appointment of Luther W. Osborn as acting chief justice of Samoa.

No. 8. Identic letter from the commission to the consuls of the three treaty powers. Dated July 18, 1899.

No. 9. The commission to Malietoa Tanu. Dated July 17, 1899.

No. 10. The commission to Mataafa. Dated July 17, 1899.

No. 11. Suggestions regarding the future government of Samoa. William L. Chambers, chief justice.

No. 12. Suggestions regarding the future government of Samoa. Ernest G. B. Maxse, British consul.

No. 13. Suggestions regarding the future government of Samoa. F. C. D. Sturdee, commander of H. M. S. *Porpoise*.

No. 14. Suggestions regarding the future government of Samoa. William Blacklock, United States vice-consul.

No. 15. Suggestions regarding the future government of Samoa. The London Missionary Society.

No. 16. Suggestions regarding the future government of Samoa. H. J. Moors.

No. 17. Suggestions regarding the future government of Samoa. Montgomery Beetham.

No. 18. Suggestions regarding the future government of Samoa. G. Lober.

No. 19. Statement of receipts and expenditures of the municipality of Apia. January 1 to December 31, 1898.

No. 20. Annual statement of Samoan Government for 1898.

No. 21. Statement of imports and exports. Port of Apia. For the year ending December 31, 1897.

No. 22. Revised ordinances and regulations of the municipality of Apia. 1891-1894.

No. 23. Notes on cocoa culture and prospects. Prepared by H. J. Moors.

No. 24. List of rifles and other weapons received by the commission from Samoan natives.

No. 25. Report by officers of men-of-war of the three treaty powers of value of arms surrendered by Samoan natives.

No. 26. Summary statement of claims against the three treaty powers filed with the commission.

No. 27. Claims against the three treaty powers filed with the commission.

No. 28. Views forming a panorama of Pago-Pago Harbor, Tutuila.

CONVENTION

BETWEEN

THE UNITED STATES, GERMANY, AND GREAT BRITAIN

TO

ADJUST AMICABLY THE QUESTIONS BETWEEN THE THREE
GOVERNMENTS IN RESPECT

TO

THE SAMOAN GROUP OF ISLANDS.

*Signed, December 2, 1899.**Ratification advised by the Senate, January 16, 1900.**Ratified by the President, February 13, 1900.**Ratifications exchanged, February 16, 1900.**Proclaimed, February 16, 1900.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,
A PROCLAMATION.

Whereas, the Convention between the United States of America, Germany and Great Britain, to adjust amicably the questions which have arisen between the three governments in respect to the Samoan group of Islands and to avoid all future misunderstanding in respect to their joint or several rights and claims of possession or jurisdiction therein, was concluded and signed by their respective Plenipotentiaries, at the City of Washington, on the second day of December, 1899, the original of which Convention, being in the English and German languages, is word for word as follows:

The President of the United States of America, His Imperial Majesty the German Emperor, King of Prussia, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, desiring to adjust amicably the questions which have arisen between them in respect to the Samoan group of Islands, as well as to avoid all future misunderstanding in respect to their joint or several rights and claims of possession or jurisdiction therein, have agreed to establish and regulate the same by a special convention; and whereas the Governments of Germany and Great Britain have, with the con-

currence of that of the United States, made an agreement regarding their respective rights and interests in the aforesaid group, the three Powers before named in furtherance of the ends above mentioned have appointed respectively their Plenipotentiaries as follows:

The President of the United States of America, The Honorable John Hay, Secretary of State of the United States;

His Majesty the German Emperor, King of Prussia, His Ambassador Extraordinary and Plenipotentiary, Herr von Holleben; and

Her Majesty the Queen of Great Britain and Ireland, Empress of India, the Right Honorable Lord Pauncefote of Preston, G. C. B., G. C. M. G., Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary:

who, after having communicated each to the other their respective full powers which were found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I.

The General Act concluded and signed by the aforesaid Powers at Berlin on the 14th day of June, A. D. 1889, and all previous treaties, conventions and agreements relating to Samoa, are annulled.

ARTICLE II.

Germany renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Great Britain in like manner renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Reciprocally, the United States of America renounce in favor of Germany all their rights and claims over and in respect to the Islands of Upolu and Savaii and all other Islands of the Samoan group west of Longitude 171° west of Greenwich.

ARTICLE III.

It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them.

ARTICLE IV.

The present Convention shall be ratified as soon as possible, and shall come into force immediately after the exchange of ratifications.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in triplicate, at Washington, the second day of December, in the year of Our Lord one thousand eight hundred and ninety-nine.

JOHN HAY	[SEAL.]
HOLLEBEN	[SEAL.]
PAUNCEFOTE.	[SEAL.]

Der Präsident der Vereinigten Staaten von Amerika, Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reiches, und Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, Kaiserin von Indien, von dem Wunsche geleitet, auf freundschaftlichem Wege die Fragen, welche in Betreff der Samoa-Inseln sich ergeben haben, zu erledigen, und allen künftigen Missverständnissen über gemeinschaftliche oder besondere Besitzrechte und Ansprüche oder über Ausübung der Gerichtsbarkeit auf diesen Inseln vorzubeugen, sind übereingekommen, Alles dies durch eine besondere Convention zu ordnen und festzulegen. Nachdem zwischen den Regierungen Deutschlands und Englands, mit Uebereinstimmung derjenigen der Vereinigten Staaten, über ihre wechselseitigen Rechte und Interessen an diesen Inseln bereits ein Uebereinkommen getroffen worden ist, haben die drei vorgenannten Mächte im Hinblick auf das vorerwähnte Ziel nachstehende Bevollmächtigte ernannt:

Der Präsident der Vereinigten Staaten von Amerika den Staatssekretär der Vereinigten Staaten The Honorable John Hay;

Seine Majestät der Deutsche Kaiser, König von Preussen, Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter, Wirklichen Geheimen Rath, Dr. von Holleben;

Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter The Right Honorable Lord Paunceforte of Preston, G. C. B., G. C. M. G.;

welche nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten folgende Bestimmungen vereinbart und ausgemacht haben:

ARTIKEL I.

Die von den vorgenannten Mächten am 14. Juni 1889 in Berlin abgeschlossene und unterzeichnete Generalacte wird hiermit aufgehoben; desgleichen werden alle dieser Acte vorausgegangenen Verträge, Abkommen und Vereinbarungen aufgehoben.

ARTIKEL II.

Deutschland verzichtet zu Gunsten der Vereinigten Staaten von Amerika auf alle seine Rechte und Ansprüche an der Insel Tutuila und an allen anderen östlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

In gleicher Weise verzichtet Grossbritannien zu Gunsten der Vereinigten Staaten von Amerika auf alle seine Rechte und Ansprüche an der Insel Tutuila und an allen anderen östlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

In gleicher Weise verzichten die Vereinigten Staaten von Amerika zu Gunsten Deutschlands auf alle ihre Rechte und Ansprüche auf die Inseln Upolu und Savaii und alle anderen westlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

ARTIKEL III.

Es wird ausdrücklich ausgemacht und vereinbart, dass jede der drei unterzeichneten Mächte auch fernerhin für ihren Handel und ihre Handelsschiffe in allen Inseln der Samoa-Gruppe die gleichen Vorrechte und Zugeständnisse geniessen soll, welche die Souveräne Macht in allen den Häfen geniesst, die dem Handel einer dieser Mächte offen stehen.

ARTIKEL IV.

Die vorliegende Convention soll sobald als möglich ratifizirt werden und unmittelbar nach Austausch der Ratifikationen in Kraft treten.

Zu Urkund dessen haben die Unterzeichneten sie vollzogen und ihre Seigel beigedrückt.

So geschehen in dreifacher Ausfertigung zu Washington, den 2. Dezember 1899.

JOHN HAY (SEAL)
 HOLLEBEN (SEAL)
 PAUNCEFOTE. (SEAL)

And whereas the said Convention has been duly ratified on the part of each Government and the ratifications of the three Governments were exchanged in the Cities of Washington, Berlin and London on the sixteenth day of February, one thousand nine hundred, in the following manner, to wit, each Government handing to the Ambassadors of the other two, at its capital, its ratification:

Now, therefore, be it known, that I, William McKinley, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States, and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the City of Washington, this sixteenth day of February, in the year of Our Lord one thousand nine hundred, and of the [SEAL.] Independence of the United States the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY

Secretary of State.

A.

**CESSION OF CHIEFS OF TUTUILA, ETC. (OF SAMOAN ISLANDS)
 TO THE UNITED STATES OF AMERICA, APRIL 17, 1900.**

To all whom these presents shall come, greeting:

Whereas the Governments of Germany, Great Britain, and of the United States of America have, on divers occasions, recognized the sovereignty of the government and people of Samoa and the Samoan Group of Islands as an independent State; and

Whereas, owing to dissensions, international disturbances, and civil war, the said Governments have deemed it necessary to assume the control of the legislation and administration of said State of Samoa; and

Whereas the said Governments have, on the sixteenth (16th) day of February, by mutual agreement, determined to partition said State; and

Whereas the Islands hereinafter described being part of the said State, have, by said arrangement amongst the said Governments, been severed from the parent State, and the Governments of Great Britain

and of Germany have withdrawn all rights hitherto acquired, claimed or possessed by both or either of them, by Treaty or otherwise, to the said Islands in favor of the Government of the United States of America; and

Whereas for the promotion of the peace and welfare of the people of said Islands, for the establishment of a good and sound Government, and for the preservation of the rights and property of the inhabitants of said Islands, the Chiefs, rulers and people thereof are desirous of granting unto the said Government of the United States full power and authority to enact proper legislation for and to control the said Islands, and are further desirous of removing all disabilities that may be existing in connection therewith, and to ratify and to confirm the grant of the rule of said Islands heretofore granted on the 2nd day of April, 1900; now know ye:

1. That we, the Chiefs whose names are hereunder subscribed, by virtue of our office as the hereditary representatives of the people of said Islands, in consideration of the premises hereinbefore recited, and for divers good considerations us hereunto moving, have ceded, transferred and yielded up unto Commander B. F. Tilley, of the U. S. S. *Abarenda*, the duly accredited representative of the Government of the United States of America in the Islands hereinafter mentioned or described, for, and on behalf of the said Government, all these, the Islands of Tutuila and Aunuu, and all other Islands, rocks, reefs, foreshores, and waters lying between the thirteenth (13th) degree and the fifteenth (15th) degree of south latitude, and between the one hundred seventy-first (171st) degree and the one hundred sixty-seventh (167th) degree of west longitude from the meridian of Greenwich, together with all sovereign rights thereunto belonging and possessed by us to hold the said ceded territory unto the Government of the United States of America to erect the same into a separate District to be annexed to the said Government to be known and designated as the District of "Tutuila."

2. The Government of the United States of America shall respect and protect the individual rights of all people dwelling in Tutuila to their lands and other property in said District; but if the Government shall require any land or any other thing for Government uses, the Government may take the same upon payment of a fair consideration for the land or other thing to those who may be deprived of their property on account of the desire of the Government.

3. The chiefs of the towns will be entitled to retain their individual control of the separate towns, if that control is in accordance with the laws of the United States of America concerning Tutuila, and if not obstructive to the peace of the people and the advancement of civilization of the people, subject also to the supervision and instruction of the said Government. But the enactment of legislation and the General Control shall remain firm with the United States of America.

4. An investigation and settlement of all claims to title to land in the different divisions or districts of Tutuila shall be made by the Government.

5. We, whose names are subscribed below, do hereby declare with truth for ourselves, our heirs and representatives, by Samoan Custom, that we will obey and owe allegiance to the Government of the United States of America.

In witness whereof we have hereunto subscribed our names and affixed our seals on this 17th day of April, 1900, A. D.

TOFO and AITULAGI

LEOSO of Leone	
TUITELE of Leone	x
FAIIVAE of Leone	x
LETULI of Iliili	x
FUIMAONO of Aoloau	x
SATELE of Vailoa	x
LEOSO of Leone	x
OLO of Leone	x
NAMOA of Aitulagi	x
MALOATA of Aitulagi	x
TUNAITAU of Pavaiai	x
LUALEMANA of Asu	x
AMITUAGAI of Ituau	x

SUA and VAIFANUA

PELE	x
MAUGA	x
LEIATO	x
FAUMUINA	x
MASANIAI	x
TUPUOLA	x
SOLIAI	x
MAUGA	x

The foregoing Instrument of Cession (pages 1, 2, 3) was duly signed by Leoso in the presence of and at the request of the Chiefs and representatives of the Division of Tofo and Aitulagi, and by Pele in the presence of and at the request of the Chiefs and representatives of the Division of Sua and Vaifanaa, in Tutuila, in conformity with a Samoan Custom as to signatures to documents, in my presence at Pagopago on the 17th day of April 1900, A. D., immediately prior to the raising of the United States Flag at the United States Naval Station, Tutuila.

(Signed)

E. W. GURR,

Barrister of the Supreme Court of Samoa.

SAMOAN CLAIMS—DECISION—1902.

DECISION GIVEN BY HIS MAJESTY OSCAR II, KING OF SWEDEN AND NORWAY, AS ARBITRATOR UNDER THE CONVENTION SIGNED AT WASHINGTON THE 7TH OF NOVEMBER, 1899, BETWEEN THE GERMAN EMPIRE, THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND, AND THE UNITED STATES OF AMERICA, RELATING TO THE SETTLEMENT OF CERTAIN CLAIMS ON ACCOUNT OF MILITARY OPERATIONS CONDUCTED IN SAMOA IN THE YEAR 1899.

GIVEN AT STOCKHOLM THE 14TH OF OCTOBER, 1902.

We Oscar, by the Grace of God King of Sweden and Norway,
 Having been requested by His Majesty the German Emperor, King of Prussia, in the name of the German Empire, by Her Majesty the late Queen of the United Kingdom of Great Britain and Ireland, and by the President of the United States of America to act as Arbitrator in the differences existing between them with regard to certain claims of residents in the Samoan Islands on account of military operations conducted there in the year 1899, and having accepted the office of Arbitrator;

Having received from the Imperial German Government, His Britannic Majesty's Government, and the Government of the United States of America their respective Cases accompanied by the documents, the official correspondence, and other evidence on which each Government relies, as well as, after due communication hereof, their respective Counter-Cases and additional documents, correspondence, and other evidence, and having thereupon received from the Imperial German Government their Reply to the Counter-Cases and additional documents, correspondence, and other evidence presented by the two other Governments;

Having since fully taken into Our consideration the Convention concluded and signed at Washington the 7:th of November 1899 for the settlement of the aforesaid claims by means of arbitration, and also the Cases, Counter-Cases, Reply, and evidence presented by the respective parties to the said Convention up to the 2:nd of April 1902, and having impartially and carefully examined the same:

Whereas by Art. I of the said Convention of the 7:th of November 1899 His Majesty the German Emperor, Her Britannic Majesty, and the President of the United States of America have agreed that all claims put forward by Germans, or British subjects, or American citizens, respectively, for compensation on account of losses which they allege having suffered in consequence of unwarranted military action, if this is shown to have occurred, on the part of German, British or American officers between the 1:st of January 1899 and the 13:th of May following, date of the arrival in Samoa of the Joint Commission of the Powers, should be decided by the present arbitration in conformity with the principles of international law or considerations of equity;

And whereas by Art. III of the said Convention it is provided that either of the three Governments may, with the consent of the others, previously obtained in every case, submit to the Arbitrator similar claims of persons not being natives who are under the protection of that Government, and who are not included in the above mentioned categories;

And whereas, by a subsequent arrangement made by the Signatory Powers, with Our sanction, the provisions of the Arbitration Convention have been extended to claims presented by other Powers on behalf of their subjects or citizens;

And whereas the German Government contend that the military action undertaken by British and American officers at the time aforesaid was wholly unwarranted and that, therefore, the British and United States' Governments are responsible for losses caused by said military action to Germans and to persons under German protection;

And whereas, on the other hand, the British Government and the United States' Government argue that the military action in question was not unwarranted but, on the contrary, was in every respect necessary and justifiable, and that, therefore, no claims are entitled to consideration by the Arbitrator, and no further proceedings under the aforesaid Convention necessary or admissible, while reserving to themselves the right to examine in detail the particular claims, should it later on become necessary to do so;

And whereas under Art. I of the said Convention no other claims are to be decided by the present arbitration than those for losses suffered in consequence of unwarranted military action, and thus the primary question to be determined by Us is whether the military action undertaken in Samoa at the time aforesaid by British and American officers was, or was not, unwarranted;

And whereas it is proper to settle this preliminary point at the present stage, and thus determine generally whether or not the British and United States' Governments ought to be considered responsible for losses caused by that action, before ordering any proceedings with respect to the particular claims presented;

Have resolved to confine Our attention, for the present, to those considerations only which have a distinct bearing on the said issue, and on that question have arrived at the following Decision:

Whereas, with respect to the military action complained of, it results from the declarations of the parties and from all the documents of the case that on the 15:th of March 1899 the U. S. ship "Philadelphia" and H. B. M. ships "Porpoise" and "Royalist" opened fire across the town of Apia and on the land situate in the rear of said town, the fire being directed against the forces of the High Chief Mataafa, that the greater part of the adherents of the newly appointed King of Samoa, Malietoa Tanumafili, having in those days been brought to Apia from different parts of the Samoan Islands by the British and American Naval Commanders, landed at Mulinu'u and supplied by them with arms and ammunition, active hostilities thereupon ensued between the Malietoans and the Mataafa party, that from the said 15:th of March up to the 25:th of April following the said ships, in support of the Malietoa party, frequently proceeded to bombard the rear of Apia as well as various other localities on the Island of Upolu and to destroy villages to overthrow the Provisional Government thereby established, was contrary to the aforesaid obligation and cannot be justified on the plea

neither of the invalidity *ab initio* of the said Provisional Government nor of its establishment under a species of *force majeure*;

Whereas—with respect to the objection of the British and United States' Governments to the refusal of the German Consul to sign the proclamation proposed by the other Consuls to be issued immediately after the Chief Justice had given his decision on the 31:st of December 1898, and their contention that, in determining the responsibility for the subsequent events, it should be taken into consideration that the attitude of the German Consul was a direct violation of the provisions of the Berlin General Act—it cannot be considered to have been the duty of the German Consul to take part in the issuing of said proclamation, and it has not been proved that with regard to said decision any steps were taken by him contrary to the General Act, and therefore no responsibility attaches for the attitude taken up by him in this respect;

Whereas—with respect to the contention of the British and United States' Governments that, whether or not there was authority to insist by force on the acceptance of the provisions of the Berlin General Act, the military action was not unwarranted, because it was necessary for the protection of lives and property which it was the duty of the British and American officers to safeguard, and because the opening of fire on the 15:th of March was necessitated by the Mataafan warriors making a rush on the British and the United States' Consulates and by a threatened attack by several war canoes on Mulinuu, where a detachment from the British and American ships was stationed,— We have found nothing in the evidence before Us to show that the general condition of affairs was such as to render the military action necessary for the protection of lives and property, and, as to the said two attacks alleged to have taken place on the 15:th of March, it results from all the facts relative thereto that the rush was not, and never was meant to be, an attack on the Consulates but simply was directed against some fleeing women of the Malietoan party, that no attack was intended on Mulinuu by the canoes, which by the garrison there were seen putting out from the opposite shore of the Vaiusu bay and which were ordered by Mataafa to go along the coast to the west and, in fact, were going in that direction and not towards Mulinuu when the firing began, and that, on account of the state of the tide, it was not even possible at the time to pass the bay in canoes;

And whereas it is established not only that, on the arrival of the "Philadelphia" on the 6:th of March, the Malietoans were completely defeated, and deported to distant places, and deprived of their arms, and unable to offer any resistance whatever to the victorious Mataafans, but also that in the last days before the beginning of the bombardment Mataafa was ordered away from Mulinuu by the United States' Admiral, and that the Malietoans were brought back there by the British and United States' military authorities, that a considerable quantity of arms was returned to the Malietoans, which arms in the beginning of January 1899 had been surrendered by them to the Commander of the "Porpoise" when, defeated by the Mataafans, they had taken refuge under the guns of that ship, that ammunition was distributed to the Malietoans from the reserve stock which, according to the arrangement in 1896 between the Treaty Powers, was to be kept by landing parties, assisted therein from the 24:th of March by H. B. M. ship "Tauranga," that from the said 15:th of March up to the said

25:th of April frequent expeditions into the interior took place by combined forces of sailors and marines from the ships of war and natives of the Malietoa party commanded by officers from the ships, for the purpose of fighting the Mataafans, or in order to procure food, and that in Apia a severe control of the street traffic was established by the British and American military authorities through the posting of sentries with orders to allow only bearers of passports issued by said authorities to pass;

Whereas—with respect to the contention of the British and United States' Governments that, under the terms of the General Act signed at Berlin the 14:th of June 1889, any one of the Signatory Powers was fully authorized to enforce by every means the decision of the 31:st of December 1898 of the Chief Justice of Samoa declaring Malietoa Tanumafili King of Samoa, which decision had been rejected by the Mataafa party, and that, therefore, the military action, if taken for that purpose, was not unwarranted—We have found nothing in the said General Act, or any subsequent agreement, which authorizes one of the Signatory Powers, or a majority of them, to take action to enforce the provisions of the Act, or the decisions of the Chief Justice binding on the Powers;

Whereas, on the contrary, by Art. I of the General Act it is expressly provided that “neither of the Powers shall exercise any separate control over the islands or the Government thereof”, and, taking into consideration the nature and extent of the operations at the time aforesaid conducted in Samoa by the British and American military authorities, the military action in question undoubtedly had the character of a serious control over the Samoan Islands and the Government thereof;

And whereas, moreover, the protocols of the Berlin Conference clearly show that, in framing the General Act, the plenipotentiaries of the Powers wished to establish the principle that, in their dealings with Samoa, the Powers only could proceed by common accord, and as this very principle has been sanctioned by the Powers not only in subsequent agreements supplementary to the General Act made between them in 1892 and 1896, by which it was agreed that under certain circumstances their ships of war might be used to support the Supreme Court of Samoa and ammunition served out to the Samoan Government, though in both cases only with the unanimous consent of the representatives of the Powers, but also in the instructions issued for the Joint Commission sent to Samoa in 1899, the actions of which should be valid only if acceded to by all three commissioners;

Whereas, furthermore, by proclamation issued on the 4:th of January 1899 the Consular Representatives of the Treaty Powers in Samoa, owing to the then disturbed state of affairs and to the urgent necessity to establish a strong Provisional Government, recognized the Mataafa party represented by the High Chief Mataafa and thirteen of his chiefs to be the Provisional Government of Samoa pending instructions from the three Treaty Powers, and thus those Powers were bound upon principles of international good faith to maintain the situation thereby created until by common accord they had otherwise decided;

And whereas, that being so, the military action in question undertaken by the British and American military authorities before the arrival of the instructions mentioned in the proclamation, and tending for the use of the Samoan Government and served out to the natives only by the unanimous request of the three consuls, and that such

distribution was made by the British and American authorities without the consent of the German Consul;

And whereas it ought to have been foreseen that the said actions on the part of the British and American authorities, which cannot be considered to have been justified by any threatening attitude of the Mataafans, should exasperate these latter and greatly endanger the peace of the country and the situation created by the surrender of the Malietoans on the 2:nd of January and by the establishment of the Provisional Government, and, therefore, the British and United States' authorities ought to have abstained from such proceedings;

Whereas, with respect to the stopping of the street traffic, the measures relative thereto were in themselves contrary, as far as Germans were concerned, to the provisions of the Berlin General Act guaranteeing them the same rights of residence, trade, and personal protection as subjects and citizens of the two other Powers, and, at all events, those measures constituting only a detail of the military operations at the time, the question whether or not they were unwarranted under the circumstances depends on the same considerations as those which concern the military action in general;

Whereas the above considerations apply equally to all the claims before Us, whether presented under the Arbitration Convention itself or under the subsequent arrangement;

For these reasons,

We are of opinion—

That the military action in question, viz. the bringing back of the Malietoans and the distribution to them of arms and ammunition, the bombardment, the military operations on shore, and the stopping of the street traffic, cannot be considered as having been warranted;

And that, therefore, His Britannic Majesty's Government and the United States' Government are responsible under the Convention of the 7:th of November 1899 for losses caused by said military action;

While reserving for a future decision the question as to the extent to which the two Governments, or each of them, may be considered responsible for such losses.

In testimony whereof We have signed this present Decision and have ordered Our Royal Seal to be affixed hereunto. Done in triplicate at Our Royal Palace at Stockholm on the fourteenth day of October in the year of Our Lord one thousand nine hundred and two.

OSCAR. [L. S.]

SAMOA.

SAMOAN AFFAIRS.

[From Foreign Relations, 1899.]

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
Washington, June 14, 1898.

SIR: It has been brought to my knowledge by the Marquis of Salisbury that the consuls of the three treaty powers in Samoa received, on the 1st of April last, a communication from certain rebel chiefs of the Tumna, notifying their independence by the erection of a separate flag at Leulumolga.

The three consuls replied, on April 9, informing the rebel chiefs that under the Berlin treaty the government of King Malietoa was the only one in Samoa, and that any attempt to set up a separate government or to raise a separate flag would not be recognized by the three treaty powers.

At a meeting held at the British consulate on the 15th April last it was unanimously decided by the three consuls to submit once more to their respective Governments the question of the return to Samoa of Mataafa.

The three consuls had previously stated their opinion that the return of Mataafa and the other exiled chiefs would, under certain conditions, be a source of strength to the government of King Malietoa, especially as the question had been further complicated by the hoisting of the rebel flag at Leulumolga.

Mr. E. Maxse, Her Majesty's consul, reports that the Mataafa clan (aiga) is very disquieted at the rumor that Mataafa will not be pardoned, and that the King and government fear that the clan will return to the rebel should his pardon be much longer delayed. Mr. Maxse adds that the return of Mataafa to Samoa would undoubtedly detach many powerful chiefs from the rebel faction who now openly declare that the talk of Mataafa's return was a mere trick to try to induce them to come in.

Under the circumstances, which I have briefly indicated above (and which have doubtless been already reported to you by the United States consul-general at Apia), I am directed by the Marquis of Salisbury to inquire whether your Government are disposed to concur in the recommendation of the consul that Mataafa should now be permitted to return to Samoa on condition of his signing the protocol a draft of which I have the honor to inclose in this note.

I have, etc.,

JULIAN PAUNCEFOTE

[Inclosure.]

PROTOCOL.

I, Mataafa, now of the island of Jaluit, do hereby solemnly promise, agree, and declare that if I shall be pardoned and permitted to return to Apia, Samoa, I will at all times be and remain in all things loyal to the government of Samoa, as now established under the Berlin treaty, and to Malietoa and to his successors; that I will remain at Mulinuu and not depart therefrom without the written consent of the consuls of the treaty powers; that I will not encourage or participate in any hostile action against the government, nor will I permit my relatives or adherents to engage in any such hostile action against the government, and that I will to the best of my ability aid and support the government as now established under said treaty, and that I will use my influence to promote the peace of Samoa and to strengthen the loyalty of the people toward the government, and that my return and continued residence in Samoa shall depend upon my faithful performance of all of the conditions above mentioned.

In testimony whereof I have hereunto set my hand this _____ day of _____ 1898.

In presence of—

Mr. Day to Sir Julian Pauncefote.

No. 1066.]

DEPARTMENT OF STATE,
Washington, June 25, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 14th instant. It deals with the question of the pardon of Mataafa and his return to Samoa, in view of the threatened secession of the other chiefs who would unquestionably be deterred from taking any hostile action against the Samoan government in case he were permitted to return from his exile. Accordingly it is suggested that should Mataafa agree to sign a protocol, draft of which you inclose, promising allegiance to Malietoa and the government of Samoa, he be permitted to return thither.

The Government of the United States cordially concurs in this view of the case and the recommendation of the consular body to which you allude. It is proper to say that this Department is in receipt of identical information with that imparted by your note, from Mr. Luther W. Osborn, consul-general of the United States at Apia, who transmitted it in a recent dispatch.

Mr. Osborn will be instructed to cooperate with his colleagues in obtaining the signature of Mataafa to the protocol in question, whereupon his return to Samoa may be assured.

Inclosing for your information a copy of a note^a upon the subject addressed to the German ambassador, I have the honor to be, etc.,

WILLIAM R. DAY.

Mr. Day to Mr. von Holleben.

No. 66.]

DEPARTMENT OF STATE,
Washington, June 25, 1898.

EXCELLENCY: I have the honor to inclose for your information a copy of a note from the British ambassador, of the 14th instant, and of my reply of the 25th, in relation to the pardon of Mataafa and his

^a See *infra*.

return to Samoa, as a means of averting threatened hostility on the part of certain other chiefs against the government of Samoa.

It will be perceived that the Government of the United States concurs in the suggestion of Her Majesty's Government based upon the recommendation of the consular body at Apia, that Mataafa be permitted to return to Samoa upon signing the protocol inclosed by the British ambassador, promising allegiance to the King and the government of Samoa.

It is not doubted that this disposition of the case will meet the approval of His Imperial Majesty's Government, and that proper instructions will be sent to the German consular representative at Apia to cooperate with his American and British colleagues to secure the signature of Mataafa to the proposed protocol upon which his return to Samoa is predicated.

The consul-general of the United States at Apia has been instructed in that sense.

I have, etc.,

WILLIAM R. DAY.

Mr. Day to Sir Julian Pauncefote.

No. 1079.]

DEPARTMENT OF STATE,

Washington, July 7, 1898.

EXCELLENCY: I have the honor to inclose for your information a copy of a note^a from the German embassy, of the 7th instant, and of my reply of to-day's date, assenting to the return of the chiefs who were exiled with Mataafa, on condition that each were willing to sign a protocol similar to that mentioned in the Department's note, No. 1066, of June 25, 1898, and which promised allegiance to the government of Samoa. It is further stipulated, however, that the consent of Her Majesty's Government should first be given to this disposition of the incident.

I have, etc.,

WILLIAM R. DAY.

Mr. Sternburg to Mr. Day.

GERMAN EMBASSY,

Washington, July 7, 1898.

MR. SECRETARY: Acting under instructions of his Government I am directed by his excellency the German ambassador to inquire whether your Government are disposed to concur in the recommendation of the Imperial German Government that all the chiefs living in exile with Mataafa should not be permitted to return to Samoa on condition of their signing a similar protocol to that to be signed by Mataafa regarding their loyalty toward the Samoan government.

Sir Julian Pauncefote informed me that he would telegraph to his Government as soon as an agreement had been reached on this question between the Government of the United States and the Imperial German Government.

I avail myself, etc.,

H. S. STERNBURG.

^aSee *infra*.

Mr. Day to Mr. von Holleben.

No. 76.]

DEPARTMENT OF STATE,
Washington, July 7, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of a note from your embassy of the 7th instant, in which you inquire whether the Government of the United States is disposed to concur in the recommendation of the Imperial German Government "that all the chiefs living in exile with Mataafa should be permitted to return to Samoa on condition of their signing a similar protocol to that to be signed by Mataafa regarding their loyalty toward the Samoan government."

I am disposed to believe that the peace of Samoa would be more readily and perhaps more permanently secured by the return thither of all the chiefs who accompanied Mataafa in his exile, provided each were willing to sign the protocol or a similar one to that mentioned in the Department's note No. 66, of June 25, 1898, and which promised allegiance to the Samoan government.

If this disposition of the incident is satisfactory to Her Britannic Majesty's Government, as well as that of His Imperial German Majesty's, it will be acceptable to the Government of the United States.

I shall give a copy of your embassy's note and of my reply to the British ambassador for the information of Her British Majesty's Government.

Accept, etc.,

WILLIAM R. DAY.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 12, 1898.

SIR: With reference to your note No. 1066, of the 25th ultimo, assenting to the return of the exiled chief, Mataafa, to Samoa, I have the honor to bring before you, by desire of the Marquis of Salisbury, a matter which, in the opinion of Her Majesty's Government, calls for consideration of the treaty powers.

Her Majesty's consular representative in Samoa, Mr. Maxse, has reported that the health of the present King, Malietoa, is very unsatisfactory, and, in view of the possibility of his early demise, it is suggested that the treaty powers should consider the arrangement to be made for the selection of a successor.

I am desired by Her Majesty's Government to inquire what view the United States Government take of the matter.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 1094.]

DEPARTMENT OF STATE,
Washington, July 18, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, in which, with reference to the return of the exiled chief, Mataafa, and the unsatisfactory condition of the health of the present king, Malietoa, whose early demise may reasonably be

expected, "it is suggested that the treaty powers should consider the arrangements to be made for the selection of a successor." You accordingly inquire, at the instance of Her Majesty's Government, what view the Government of the United States takes of the matter.

The inquiry of Her Majesty's Government is evidently prompted by a desire to insure, if possible, the permanent peace of the Samoan Islands in case of the death of King Malietoa. In this aspect of the case the Government of the United States is equally solicitous and is willing to exert its influence by all legal and equitable means.

It is desirable and necessary, however, in this connection to refer to the provisions of the general act providing for the neutrality and autonomous government of the Samoan Islands, concluded at Berlin June 14, 1889.

Article I of the general act, after declaring that those islands are neutral territory, in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection, says:

The three powers recognize the independence of the Samoan government and the free right of the natives to elect their chief or king and choose their form of government according to their own laws and customs. Neither of the powers shall exercise any separate control over the islands or the government thereof.

The same article defines the status of Malietoa Laupepa, who was recognized by the three powers as king, and adds:

His successor shall be duly elected according to the laws and customs of Samoa.

Nowhere in the general act is authority conferred upon the treaty powers to appoint or agree upon a successor to King Malietoa. The right of the natives to elect their chief or king according to their own laws and customs is clearly conceded and recognized.

When they shall have done this, by reason of the death of Malietoa, the Government of the United States will be most willing to cooperate with the interested powers to recognize the natives' choice and to do all that lies in its power to strengthen his hands for the preservation of peace and the maintenance of good government in the Samoan Islands.

I have, etc.,

WILLIAM R. DAY.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 26, 1898.

SIR: With reference to your note of the 7th instant and to previous correspondence relative to the proposed measures for the repatriation of Mataafa and the chiefs exiled with him, I have the honor to state to you that I have been informed by Her Majesty's secretary of state for foreign affairs that instructions have been sent by telegraph to Her Majesty's consul at Apia to make the necessary arrangements, in concert with his German and United States colleagues, for Mataafa's return to Samoa, on condition that he signs the protocol which has been drawn up with regard to his future good conduct.

Consul Maxse's attention has also been drawn to the opinion of the German Government that the chiefs who shared Mataafa's exile should also be called upon to sign the protocol previous to their return.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 1110.]

DEPARTMENT OF STATE,
Washington, July 29, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant in regard to the proposed measures for the return to Samoa of Mataafa and the chiefs exiled with him, and to say, in reply, that they are satisfactory to the Government of the United States.

I have, etc.,

WILLIAM R. DAY.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., September 1, 1898.

SIR: With reference to my note of the 12th of July last, respecting the possibility of the early demise of King Malietoa, of Samoa, and the arrangements to be made for selecting his successor, I have the honor to state to you that Her Majesty's Government have now received through Mr. Maxse, Her Majesty's consul in Samoa, the intelligence of Malietoa's death.

I am directed by Her Majesty's secretary of state for foreign affairs to inform you that Her Majesty's Government are of opinion that the election of the King's successor ought to be strictly in accordance with the provisions of Article I of the Berlin final act of 1890, and that the consuls of the three powers should be instructed by telegraph to submit suggestions relative to the manner of procedure.

In reporting the death of the King, Mr. Maxse added a personal recommendation that the return to Samoa of the Chief, Mataafa, should be delayed until after the election of a new king, and Her Majesty's Government would be glad to learn the views of the United States Government in regard to this proposal.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Adee.

BRITISH EMBASSY,
New London, Conn., September 28, 1898.

SIR: I had the honor on the 1st instant to address a note to Mr. Secretary Day in reference to the affairs of Samoa, stating the views of Her Majesty's Government in regard to the election of a successor to the late King Malietoa, and asking for an expression of your Government's opinion on the recommendation of Her Majesty's consul at Apia that the return to Samoa of the Chief, Mataafa, should be delayed until after the election of the new king.

I venture to recall the matter to the attention of your Government, as the question of Mataafa's return is evidently one on which it is important that a decision should be arrived at without delay, and I feel it to be very desirable that my Government should be in possession of the views of the United States Government on the subject at the earliest moment possible.

I should be greatly obliged if you would favor me with a reply to the inquiry contained in my note as soon as you find it practicable to do so, in order that I may communicate it to Her Majesty's Government by telegraph.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Hay to Sir Julian Pouncefote.

No. 1217.]

DEPARTMENT OF STATE,
Washington, October 5, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your notes of September 1 and 28, 1898. In the former you refer to the death of Malietoa, King of Samoa, and say that Her Majesty's Government is of the opinion that his successor should be elected strictly in accordance with the provisions of Article I of the general act of Berlin of June 24, 1889, and that the return of Mataafa and his exiled companions should be deferred until after the election. In the latter note you repeat this recommendation and ask the views of the Government of the United States upon the subject.

The conclusion of the British Government touching the election of a successor to the recently deceased king coincides with the views expressed in the Department's note of July 18, 1898, No. 1094.

It is observed, however, that the further suggestion is made in your note of September 1 "that the consuls of the three powers should be instructed by telegraph to submit suggestions relative to the manner of procedure."

I am disposed to sanction, on the part of the Government of the United States, as a wise and perhaps necessary precaution to insure the peace of Samoa, that the election of Malietoa's successor should precede the return of Mataafa and followers to Samoa. But I fail to see with what propriety the consuls of the treaty powers could be instructed to "submit suggestions relative to the manner of procedure." It should be borne in mind, as was pointed out in the Department's note of July 18 last, that the three powers recognize Samoan independence and "the free right of the natives to elect their chief or king * * * according to their own laws and customs." Again, Article I declares, referring to Malietoa, "his successor shall be duly elected according to the laws and customs of Samoa."

It is true the Department is not advised as to the manner and procedure to be followed in the election of a new king, under Samoan laws and customs, but it fails to comprehend the necessity for telegraphic instruction to the consuls, in the sense of your suggestion, since it appears to be a case in which neither power is called upon to interfere beyond what may reasonably be done to conserve the peace of Samoa, should it be threatened by a failure of the natives to exercise their free right to choose their king according to their own laws and customs.

As a matter of interest perhaps it might have been well had the consuls apprised their Governments of the method of native procedure, but in all probability the election will have taken place and the result thereof, including the manner of procedure, will have been reported on by each consul to his Government before such information could now be sought and availed of.

The return of the exiled chiefs is a question to be seriously considered. The assent of this Government for their return was given while yet Malietoa lived. His death, entailing the election of a successor, put an entirely new phase upon the matter. This Government is still of opinion that they should be returned to Samoa, but it believes that

all interests would be best subserved, if it be not now too late, by withholding their return until after a new king has been elected and installed.

In this connection, for convenience, reference is made to the Department's notes of June 25 and July 29, Nos. 1066 and 1110, respectively, respecting the return of these exiled chiefs. This correspondence was promptly brought to the attention of the consul-general of the United States at Apia and two dispatches from Mr. Luther W. Osborn, No. 50 of August 9 and No. 55 of August 31, 1898, treat of this subject.

In the first dispatch he remarks that his colleagues have not received instructions as full as his own, but that the Imperial German consul was in daily expectation of receiving his, and that consequently a joint meeting was temporarily deferred. Mr. Osborn says:

Neither consul has any definite instructions as to the return of the chiefs who are in exile with Mataafa though it is presumed that Her Majesty's Government consented and that we will be advised by the next mail. Instruction No. 46 was written July 8, which was probably the latest date on which a communication would have reached me by the July boat.

At that time I believe that the British ambassador had cabled to his Government, but no answer had been received. We have thought best that we should take no action before receiving advices that all concur in consenting to the return of all. In that event whatever boat is sent to Jaluit can take the protocols, and if properly signed and agreed to by Mataafa and the other chiefs, the same boat can bring them to Samoa and thus make but a single trip, and this is desirable, as the distance is great.

At that date the only vessel at Samoa was the German *Bussard*. It was not, however, thought prudent to dispatch her for the exiles in view of the precarious condition of the late King's health. Again, Mr. Osborn writes:

In view of the possible death of Malietoa, we are somewhat interested in the question of the selection of his successor.

It was agreed to-night that we would meet soon in consultation with the chief justice and endeavor to decide what action should be taken by the consuls in the matter, should any action become necessary.

In the second dispatch Mr. Osborn refers to the fact that the three powers, while agreeing to the return of these chiefs, had not decided as to the means to be adopted to that end. Mr. Osborn adds:

By the last mail from San Francisco the German consul-general received telegraphic instructions that it was agreed that the *Bussard* should at once proceed to the Marshall Islands and return the exiles, provided they should sign the protocols as to future conduct, substantially as heretofore agreed upon by the powers. As these exiles are in German territory. I suppose this arrangement to be the only one that could be made. Owing to the death of Malietoa the protocols had to be changed or modified to conform to changed conditions, and this was accordingly done by the agreement of all parties, and I send herewith, as inclosure 1, the protocol designed for Mataafa and, as No. 2, the protocol prepared for the other chiefs.

The *Bussard* started for the islands at 8.30 on August 29, and it is supposed that it will return in about twenty-five days, as the distance is about 1,600 miles, and the *Bussard* is not expected to make more than 200 miles per day. We have arranged that the *Bussard* shall deliver the exiles at Mulinuu, as there would otherwise be contention as to what consular boat should deliver them, and under what flag. The consuls and the chief justice will then receive them on shore at Mulinuu—also the president.

This is a peculiar country, existing under peculiar conditions, and the utmost care must be taken to avoid friction.

This we shall seek to avoid. By first mail after the arrival I will make full report.

These extracts give the Department the latest and most authentic information on the subject. It may be too late to prevent the return of these chiefs, but I am willing to telegraph Mr. Osborn as follows:

Unless exiled chiefs have been returned Samoa, join your colleagues in preventing their landing until after election new king.

Awaiting your pleasure before taking further action on the subject, I have, etc.,

JOHN HAY.

Sir Julian Pauncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, January 9, 1899.

SIR: Count Castell, the German chargé d'affaires in London, has communicated to the Marquis of Salisbury a report from the German consul-general at Apia with reference to the election of a king in Samoa. The consul-general recommends the issue of identic instructions to the consuls of the three treaty powers directing them to keep in view in all circumstances the preservation of peace, and, if necessary, to make joint proposals for the settlement of the political situation in case it should be found impossible to carry out the election of the new king in accordance with the provisions of the Berlin final act.

The German Government have expressed their opinion that such instructions would tend to the preservation of peace.

Lord Salisbury has replied, stating that Her Majesty's Government concur in the proposal made by the German Government.

I am directed by Lord Salisbury to communicate the above for the information of your Government.

I have, etc.

JULIAN PAUNCEFOTE.

Mr. Hay to Sir Julian Pauncefote.

No. 1307.]

DEPARTMENT OF STATE,
Washington, January 10, 1899.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 9th instant, embodying the substance of a report from the German consul-general at Apia with reference to the election of a Samoan king. You add:

The consul-general recommends the issue of identic instructions to the consuls of the three treaty powers directing them to keep in view in all circumstances the preservation of peace, and, if necessary, to make joint proposals for the settlement of the political situation in case it should be found impossible to carry out the election of the new king in accordance with the provisions of the Berlin final act.

You say that the German Government has expressed its opinion that such instructions would tend to the preservation of peace and that Lord Salisbury has replied that the German proposal was concurred in by Her Majesty's Government.

In a memorandum from the German chargé d'affaires ad interim of December 14, 1898, substantially the same proposal was made and the views of this Government invited.

In my reply of January 10, 1899, I have said, regarding this proposition, that the consul-general of the United States at Apia was fully

cognizant of the desire of his Government that peace and prosperity should prevail in Samoa. I added:

Acting under the general instructions given him, I am sure that Mr. Osborn will omit no reasonable opportunity to manifest his interest or to assist his colleagues in furthering so desirable an end, so far as this can properly be done.

If, however, by "joint proposals in the interest of the political situation"—since that is a broad and general designation as applied to the Samoan Islands or to any other sovereignty—is meant that Mr. Osborn should be instructed to join with his colleagues in matters touching the election of a king, I must say that this can not be assented to. The view of this Department on this subject are contained in its note of December 29, 1898, No. 164, and so far no reason is perceived making it necessary to depart therefrom. Moreover, the latest intelligence the Department possesses on this point is that, after fruitless attempts to elect a king according to Samoan laws and customs, the matter has been referred to the chief justice pursuant to Article III, section 6, of the Berlin general act, which says:

"In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of king or of any other chief claiming authority over the islands, or respecting the validity of the powers which the king or any chief may claim in the exercise of his office, such question shall not lead to war, but shall be presented for decision to the chief justice of Samoa, who shall decide it in writing, conformably to the provisions of this act and to the laws and customs of Samoa not in conflict therewith; and the signatory Governments will accept and abide by such decision."

In this connection I desire to refer to the Department's note to you of July 18, 1898, No. 1094, wherein the views of this Government were expressed touching the election of a king.

In conclusion, I assure you that this Government is equally interested with that of Great Britain and Germany in seeing that peace is maintained in Samoa and that the election of a king shall proceed in accordance with the laws and customs of the country, or, in case of failure thereof, that the reference of the issues involved to the chief justice shall be had under the provisions of the Berlin final act. Further than this the Government of the United States does not feel that it would be justified in going, and, moreover, believes that any undue influence or assertion of authority on the part of the consular representatives at Apia would be violative of the treaty, and instead of composing the differences, if any, that exist at present in Samoa growing out of the efforts to elect a king, might aggravate them. It holds that the three Governments should maintain an absolutely impartial attitude, confining their efforts, through their respective consuls at Apia, to the maintenance of peace and good order and the protection of the lives and property of their nationals from any disturbances that might unfortunately arise during the efforts put forward by the various factions for the election of a king.

I have, etc.,

JOHN HAY.

The Marquis of Salisbury to Sir Julian Pauncefote.

[Telegram.]

BRITISH EMBASSY,
Washington, March 4, 1899.

Article 5, Section V, of general act for government of Samoan Islands.

German Government suggest that, in the event of any doubt arising as to the competency of the provisional (?) government of Samoa under this section, the new president should, as a preliminary arrangement, be appointed by the consuls of the powers without the cooperation of the Samoan authorities.

Please ascertain if the United States Government concur.

Sir Julian Pauncefote to Mr. Hay.

[Telegram from Consul Maxse, Apia, to Lord Salisbury, March 7, 1899.]

BRITISH EMBASSY, *March 17, 1899.*

U. S. S. *Philadelphia* arrived March 6. Forces are being assembled by Mataafa faction, who are intimidating certain Malieto chiefs with a view to compel them to join.

The German consul-general has declined to join the United States and British consular representatives in a proclamation, but has himself issued an aggressive one.

Agreement impossible owing to action of German consul-general.

[Handed to Secretary April 13, 1899, being substance of a telegram from Lord Salisbury to Sir Julian Pauncefote.]

In view of the troubles which have recently taken place in Samoa, and for the purpose of restoring tranquillity and order therein, the three parties to the conference of Berlin have appointed a commission to undertake the provisional government of the islands.

For this purpose they shall exercise authority in the islands. Every other person or persons exercising authority therein, whether acting under the provisions of the final act of Berlin or otherwise, shall obey their orders, and the three powers will instruct their consuls and naval officers to render similar obedience. No action taken by the commissioners in pursuance of the above authority shall be valid unless it is assented to by all three commissioners. It will fall within the attribute of the commissioners to "consider the provisions which they may think necessary for the future government of the islands, or for the modification of the final act of Berlin, and to report to their Governments the conclusions to which they may come."

A similar telegram has been sent to Berlin.

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,

Washington, April 14, 1899.

Agreement for Samoan commission reached on basis of Lord Salisbury's recent identical telegrams to British ambassadors in Washington and Berlin. To be completed by exchange of notes at London. You will at once arrange with Lord Salisbury and address him a formal note accepting on behalf of the Government of the United States the joint agreement in the words of Lord Salisbury's telegrams.

HAY.

Mr. Choate to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,

London, April 15, 1899.

I have accepted joint agreement in terms of British minister for foreign affairs telegrams as obtained from the foreign office.

CHOATE.

Mr. Hay to Mr. Tripp.

DEPARTMENT OF STATE,
Washington, April 18, 1899.

SIR: In consequence of the important state of affairs existing at present at Apia, the Governments of the United States, Great Britain, and Germany, signatories to the Berlin general act concluded June 14, 1899, have agreed upon a commission to visit the islands for the purpose of reaching a satisfactory adjustment of the questions that have given rise to this unfortunate condition.

I have the pleasure therefore to inclose your letter of appointment as commissioner of the United States to the Samoan Islands, and a copy of the Berlin general act,^a providing for the autonomous government of those islands.

In this connection I embody the identic instruction each Government proposes to address to its commissioner, It reads as follows:

In view of the troubles which have recently taken place in Samoa, and for the purpose of restoring tranquillity and order therein, the three powers, parties to the conference of Berlin, have appointed a commission to undertake the provisional government of the islands.

For this purpose they shall exercise supreme authority in the islands. Every other person or persons exercising authority therein, whether acting under the provisions of the final act of Berlin or otherwise shall obey their orders, and the three powers will instruct their consular and naval officers to render similar obedience. No action taken by the commissioners in pursuance of the above authority shall be valid unless it is acceded to by all three commissioners. It will fall within the attributes of the commissioners to consider the provisions which they may think necessary for the future government of the islands, or for the modification of the final act of Berlin, and to report to their Governments the conclusions to which they may come.

Your colleagues will be: On the part of Great Britain, Mr. C. N. E. Eliot, C. B., second secretary of the embassy in this city, and, on the part of Germany, Freiherr Speck von Sternberg, counselor of legation and first secretary of the embassy at Washington.

The Secretary of the Navy has placed at the disposal of the commission the U. S. S. *Badger*, now fitting out at San Francisco, for the purpose of conveying it to Samoa and return. The ship will be ready to sail from San Francisco by April 25, 1899, at which time it is expected yourself and colleagues will arrive there.

The President leaves to your judgment and discretion, within the limits of the identic instruction, the full and complete investigations which he regards as necessary to a proper understanding of the situation, to the end that a repetition of the regrettable incidents may not occur, the exact responsibility may be clearly established, and the remedy be applied. The President feels that you realize the importance of the trust confided to you, and is confident that, in the exercise of the plenary powers you possess, you will give the subject, in all its bearings, careful and thoughtful study, so that the report of the commission may have that value which he confidently expects and which the importance of the questions at issue imperatively demands. The President particularly enjoins harmony of action, which must needs give to the deliberations of the commission added value and weight. He desires the questions shall be thoroughly sifted and wishes the facts

^a Printed in Foreign Relations, 1889, p. 353.

plainly stated. In other words, the origin and causes of the recent occurrences at Apia should be clearly and definitely ascertained.

* * * * *

I am, etc.,

JOHN HAY.

Mr. Tripp to Mr. Hay.

No. 1.]

APIA, SAMOA, *May 18, 1899.*

SIR: I have the honor to inform you that the commission arrived in San Francisco on the evening of April 24, 1899, as was expected when we left Washington, and sailed from San Francisco April 26, at 10 o'clock a. m., for Samoa. We arrived at Honolulu May 3, and having taken on a supply of coal, left that port for Apia May 5, arriving here Saturday, May 13, and cast anchor in the harbor about 9 a. m. After the firing of salutes and paying the customary visits the commission organized in the afternoon of May 13, 1899, by electing myself as chairman and Mr. Morgan as secretary. On Monday, the 15th, we secured rooms for sessions of the commission during the day on shore and have held daily sessions since that time.

I have little of progress to report at this time. Our consul has from time to time fully advised you of the rapid succession of events since the decision of the Chief Justice in favor of Malietoa Tanu as King, and I can add nothing new as a matter of historical interest to that which you have already before you.

Open hostilities have ceased and a kind of armistice now obtains; but several thousand of the fighting men of the islands are camped about us. The feeling of insecurity on the part of the whites is very acute and the strain of nervous tension is almost painful. Mataafa has withdrawn behind his improvised fortifications without the boundaries of Apia and about 1,000 of the native adherents of Malietoa Tanu, commanded by American and English officers, armed with American and English rifles, together with detachments of marines from American and English ships in the harbor, are camped within the town of Apia, patrol its streets, and are instructed to repel any attack of Mataafa's men and to guard the unprotected property of the people. The feeling existing here between American, English, and German officials has extended itself to those of English and German nationality in private life. There is no apparent disposition toward compromise or concession by those who have taken part with or manifested sympathy for the actors in this terrible tragedy. Every man, woman and child—white and native—seems to have become an adherent of one or the other of these hostile factions contending for the empty honor of being crowned a Samoan king. This complicates and makes more difficult the work of the commission. You must not expect too much from its unanimous action. I shall use every effort to secure such action as may restore peace, disband and disarm these savage tribes, and secure for them a simple, strong, and stable government in the future, so far as it can be done by compromise and concession in matters which will not affect our national honor nor offend our national dignity. If more be demanded I shall aim to make apparent the responsibility of those who shall have defeated the object of the commission by stubborn adherence to immaterial technicalities to the sacrifice of diplomatic principle. I am studying the question from the standpoint of the native as I have studied

it on my journey from the standpoint of the nations, and so far I must admit I am unable to see upon what ground the decision of the chief justice can be overturned even though the reasoning by which he came to the conclusion may be open to objection. The jurisdiction of the court from whatever standpoint the case be considered is ample and undoubted, both of the subject-matter and of the parties. If any doubt remained, the express language of the treaty puts it at rest. The decision rendered by the supreme court of Samoa, in the exercise of undoubted jurisdiction, is unmistakably clear and plain. It is a full, complete, and final determination of the issues before the court, and though it gave a wrong reason for a decision it was authorized to render, such fact even would not avoid or affect the decision itself. The proposition is one too elementary to permit of discussion. This proposition has not yet been discussed by the commission, but if my associates agree with me, as it seems to me they must, the questions before us will be simplified and in a measure relieved of the local obstacles which otherwise would tend to impede our progress. I hope to inform you in my next that by easy stages the commission has arrived at this conclusion, and that the results which should naturally flow from such decision have been attained, modified only by such immaterial concessions as must be made to unanimity and to national dignity. The task you have set me is a delicate as well as a difficult one, and I trust my success or failure will be measured by the force and character of the opposition I have had to meet or overcome. I hope to write you more definitely in my next.

I have, etc.,

BARTLETT TRIPP.

Mr. Tripp to Mr. Hay.

No. 2.]

APIA, SAMOA, *May 19, 1899.*

SIR: I have the honor to submit herewith letters received from Malietoa Tanumafili and also from Mataafa, together with our replies.

We have arranged to receive Malietoa Tanumafili this afternoon and Mataafa to-morrow morning on board the *Badger*, together with their head chiefs and talking men. We shall hear what each party has to say, advise them fully of our powers, and inform them that they must disband, return to their homes, and await the further action of the commission.

* * * * *

All is now quiet and the status quo is expected to be maintained until the definite action of the commission.

I am getting off this dispatch hurriedly just as the mail is closing, and beg, etc.

BARTLETT TRIPP.

[Inclosure 1.]

Mataafa to the Commission.

THE PROVISIONAL GOVERNMENT OF SAMOA,
Malie, May 12, 1899.

YOUR EXCELLENCIES: We offer your excellencies our great respect and our thanks. We offer you in this letter our welcome, with the heart full of joy at our now meeting.

We are the provisional government, established by the three consular representatives of the three great signatory powers.

(1) We express to you our great joy and thanks that you come to Samoa on so high a mission. Thanks for your coming, and we know certainly that you will do what is just with goodness and love to our country. We hope greatly in your good will and help to those who are known to have the authority of the Tanua and Pule in this our own country according to Samoan customs.

Thanks for your safe journey over the great sea with its contrary winds and great distance.

(2) We know for certain that you greatly desire the happiness and peace of Samoa. Therefore we now appeal to you as follows, if it is according to the desire of your excellencies: To disperse the army at Mulinuu, and take away all the arms that were distributed to them by the whites. Then we promise to quickly dismiss our soldiers.

(3) We appeal to you with respect, if it is according to your desire: To allow us, if possible, to go to Apia to interview our lawyers, who shall arrive in Apia next week. We promise you now that we ourselves will advise the peace of Samoa.

In our sincerity we sign our hand below.

We are your beloved friends,

MATAAFA AND THE 13 CHIEFS OF TANUA AND PULE.

[Inclosure 2.]

The Commission to Mataafa.

APIA, May 15, 1899.

SIR: Your letter of the 12th has been received. The great powers have learned with regret that the Samoan people have been unable to agree upon a king; and they have been shocked at the atrocities which have followed this disagreement. The three powers are agreed that peace should be established, the war ended, and all Samoans return peaceably to their homes.

They have sent us to take over the government of these islands now, and to prepare for Samoa a strong and stable government for the future.

We shall be glad to receive you and to speak with you further about these and other matters, and we therefore invite you to call on us on board our vessel, the *Badger*.

We desire you to inform us when you will come to Apia in order that we may make arrangements for your safe journey.

We are, sir, yours faithfully,

[Signed by each commissioner.]

[Inclosure 3.]

Mataafa to the Commission.

MALIE, May 17, 1899.

YOUR EXCELLENCIES: We have received your letter of the 15th instant.

We thank you that we have been informed of your power to protect and do away with the difficulties which have grown in Samoa and to put right the rule for this country and to establish a good and strong government.

I agree to your excellencies with great respect.

I shall come to Apia with four high Faipules and the secretary, we will meet you on board of your ship (*Badger*). On Saturday (May 20) we will be here.

We hope to your protection that we will be safe on our way to here and on the return.

We are your true friends,

MATAAFA AND THE 13 CHIEFS OF TANUA AND PULE.

[Inclosure 4.]

*Mataafa to the Commission.*MALIE, *May 18, 1899.*

YOUR EXCELLENCIES: Kindly excuse us. We ask the following permission with respect: Could you meet us with some boats, offering us your protection that our journey to Apia may be safe, because we do not wish any trouble to arise again between ourselves and Samoans who are in Mulinuu.

We shall leave Malie at 7 o'clock in the morning and desire to arrive on board the *Badger* at 9 or 10 o'clock.

We are, with respect, your sincere friends,

MATAAFA AND THE 13 CHIEFS OF TANUA AND PULE.

[Inclosure 5.]

*The Commission to Mataafa.*APIA, *May 19, 1899.*

SIR: We have received your letters of the 17th and 18th of this month, in which you inform us that you will call on us with four high chiefs and a secretary on Saturday next on board our ship the *Badger*.

We shall be pleased to receive you at 9 o'clock in the morning. Three men of war boats of the three powers, each bearing its flag, will arrive at Malie at 7 o'clock to escort you to our ship and bring you back.

We are, sir, yours faithfully,

[Signed by each commissioner.]

[Inclosure 6.]

*Malietao to the Commission.*GOVERNMENT HOUSE, *Mulinuu, May 15, 1899.*

Your Excellencies, greeting:

We, the king and government of Samoa, are greatly rejoiced that you, the three high chiefs representing the great powers who framed the treaty of friendship at Berlin in 1889; that treaty has been the foundation of all administration of Samoa for many years; the rule also of Samoa is under that treaty.

We trust sincerely and hope that your sojourn in Samoa will be pleasant and successful. Anything we can do on behalf of the government of Samoa we will do in order that all the desires of you and your great Governments shall be accomplished; we will perform all things righteously. We trusted in days past in the treaty of friendship; we still obey all provisions of that treaty. Our desire is that we continue to act as in the past. We will obey all things the great powers shall determine.

We hope that the protection of the great powers will remain over this country.

Let all matters which are prepared for Samoa according to the great powers be successful.

With the utmost respect toward your Government we are very thankful on account of the friendship with Samoa.

By the full desire of the Government of Samoa the hand of His Majesty the King of Samoa is subscribed now, and the great seal of the King is affixed to it.

[SEAL.]

MALIETOA TANUMAFILI.

[Inclosure 7.]

*The Commission to Malietao.*APIA, *May 17, 1899.*

SIR: We were glad to receive your letter of the 15th instant, and we take note with great satisfaction of your declaration that you and your government will obey in all things the desires of the three powers and of the commission.

The powers have learned with regret that the Samoan people have been unable to agree upon a king, and they have been shocked at the atrocities which have followed

this disagreement. The three powers are agreed that peace should be established, the war ended, and all Samoans return peaceably to their homes.

They have sent us to take over the government of these islands now, and to prepare for Samoa a strong and stable government for the future.

Having only newly arrived we wish to acquaint ourselves with the condition of these islands before taking any action, and we hereby desire you to inform your people of this, to enjoin them to keep quiet and refrain from all hostilities pending the decisions of the commission.

In a very short time it is our intention to request you to confer with us as to the measures best adopted for ending war and assuring the tranquillity of Samoa.

We are, sir, yours faithfully,

[Signed by each commissioner.]

Mr. Tripp to Mr. Hay.

No. 3.]

APIA, Samoa, May 21, 1899.

SIR: I have the honor to inform you that in accordance with the correspondence between this commission and the high chiefs Malietoa Lanu and Mataafa, we received them on board our vessel, the *Badger*, Malietoa Tanu on Friday afternoon and Mataafa yesterday forenoon, each being accompanied by six of his principal chiefs and interpreters. The interview in each case was most satisfactory. We explained to each of them that the great powers had heard with much regret that the Samoans had failed to agree as to who should be their king to succeed Malietoa Leufiefa and had gone to war with each other, destroying life and property, until the war ships, sent here for their protection, were obliged to fire upon them to restore peace; that the great powers (great voices, as they call the three great powers) had sent the commission to inquire into the cause of this conduct on the part of the Samoans, to restore to each of the islands and to give them in future a strong government which should prevent the recurrence of such condition of things; that the powers were united in this and would enforce the action of the commission with the guns of the great war ships in the harbor, and, if necessary, would send others hither for that purpose. And we asked them to tell us frankly and freely why they were in arms, what they desired, and whether they would in all things obey the commands of the commission; that the commission deemed it necessary, in order to prevent further bloodshed and destruction of property, that all Samoans should give up their arms, disband their armies, and return at once to their homes and await the decision of the commission as to who should be their king and what form of government it would adopt.

Both Malietoa Tanu and Mataafa, together with the chiefs present, assented to these propositions with promptness and apparent willingness. Mataafa especially was profuse in his declaration of allegiance to the great voices. He said that while his soldiers—the soldiers of Mataafa—owned their arms, and had bought them with their own money, and while they did not belong to the great powers as did the arms now in the hands of Malietoa Tanu, yet if the great nations of Germany, the United States, and Great Britain believed it right and necessary to demand them in the interest of peace and good government they would obey. The commission replied that the great powers would never deprive any man of his property unnecessarily nor without just compensation; that if they would voluntarily surrender their

arms and ammunition to the commission a detachment of soldiers would be sent to receive them, and when peace was restored and a good government established the arms should be returned to them, or they should be paid for both arms and ammunition at their full value. This seemed to please them, and all the chiefs present promised that they would do so at once.

The commission then told them that it would be best for them to call a meeting of their chiefs—a “fono” as they say—and submit to it what the commission required, so that there might be no misunderstanding nor disobedience on the part of any chiefs on the adjoining islands. Mataafa went away promising to send for all chiefs not already in his camp, to tell them what the commission had said, and to give the commission an early answer as to disbanding and delivering arms. The force of Malietoa Tanu is armed with guns belonging to England and the United States, and their disarmament, when necessary, will be a matter of form.

The commission also asked both Malietoa Tanu and Mataafa if they and each of them would submit to and acknowledge as their king either Malietoa Tanu, Mataafa, or any other chief that might be selected by the commission, and each of them, as well as their chiefs present, promised that they would do so. All of these chiefs were profuse in their words of submission and of gratitude, that the great voices had sent the commission to make peace, and they assured us again and again that they would obey every command of the united powers.

We are all much gratified with the result of these two interviews, the more so on account of the fact that we had been previously informed by those best acquainted with Samoan character, including missionaries and others who have been many years among them, they would never consent to deliver up their arms. The spirit of apparent confidence in the great powers and willingness to obey any requests of the commission sent to them also gave us great satisfaction, especially as every one tells us that they will keep all promises made. We take these statements with many grains of allowance and congratulate ourselves that we have made more rapid advances toward a peaceful settlement of these matters than those better experienced here gave us hope of so soon accomplishing. We expect within the next week to receive favorable answers from both these opposing factions and immediately to follow up the advantage gained by progressive results. These people are far from being savages. They are splendid specimens of physical manhood and all are well informed about matters of general information. They are nearly all Christians and very devout in their attachment to their church and religion. They have a very high appreciation of the power and civilization of the white nations but are slow to adapt themselves thereto. The climate makes them sluggish and content with what nature has supplied, while their love and fear of the whites lead them to rely upon and submit to what is required without inquiry or complaint.

The *Philadelphia*, which is just leaving for Honolulu, kindly consents to take this dispatch, and I must close with a promise to advise you at every opportunity of the progress made.

I have, etc.,

BARTLETT TRIPP.

Mr. Tripp to Mr. Hay.

No. 4.]

APIA, SAMOA, *June 16, 1899.*

SIR: A little more than a month has elapsed since we dropped anchor in this beautiful harbor. It was then filled with the war ships of the three great powers: Three on the part of great Britain, one German, and two American, including the *Philadelphia* and the collier *Brutus*. On the shore soldiers were seen marching and flags of the different nationalities flying from the flagstaves erected at each prominent point along the coast and over the plantations adjoining the municipality of Apia. Several hundred marines from the ships had been stationed for several weeks at the points of danger. About 700 natives, armed with British rifles and drilled by British officers, had been mustered into service for the defense of Apia, while over 2,000 other natives, adherents of Malietoa Tanu, were occupying the outposts of defense about the town. At a few miles to the west and east the native forces of Mataafa, about 3,000 in number, were resting on their arms behind improvised fortifications, leaving between themselves and the hostile forces of Tanu a neutral zone during the armistice agreed upon between them and pending the arrival of the commission. The country surrounding Apia indeed had much the appearance of a battlefield at the time of our arrival. The shells from the war vessels, fired to dislodge the forces of Mataafa, had left their marks upon the houses and plantations surrounding the town and within a radius of 3 miles from the inner harbor, while the lawless acts of looting and foraging parties from either camp had left behind them a scene of devastation and desolation which always succeeds the invasion of armed forces of savage or civilized men. Great tensivity of feeling existed on the part of the white population and the sympathy existing seemed to be about equally divided in favor of the success of Tanu and Mataafa as the rightful claimant to the empty honor of king.

The arrival of the commission, while awaited with some anxiety, was not looked forward to with confidence or satisfaction. The adherents of Mataafa did not believe that anything substantial would result from their visit, and the adherents of Tanu looked upon the commission as inopportunately interfering with their planned and expected victory over the forces of Mataafa. The commission therefore entered upon the work with neither the confidence nor the good wishes of the people it was sent to aid and protect. It set to work, however, with a determined will to restore peace and order and to try to improve the present and future condition of the native and foreigner here. They immediately opened rooms in the town accessible to the people and called before them all persons of long residence and experience in these islands and advised with them as to the government of the past, the cause of the past rebellion against their native chiefs, and obtained from them such views as they might have found in reference to the kind of government best adapted to the character and capacity of the people. The commission were particularly anxious and determined first to disarm the forces surrounding the town, and they directed their inquiries as to the best method of accomplishing this result. They consulted the missionaries, many of whom had been here more than twenty years, merchants whose business life had been spent in Apia, government officers of all grades whose official relations brought them more or less in contact with the native themselves, and naval officers

who had become acquainted with native character by the unfortunate experience of actual war, and without a dissenting voice the commission was told that disbanding was possible but disarmament impossible; that next to his cause the native loved his gun; that he would surrender it neither by persuasion nor by force; he would bury it, throw it into the sea, and if need be destroy it, but never surrender it; that disarmament had been repeatedly tried and had resulted only in the surrender of a few worthless guns which were soon replaced by others of modern manufacture and more effective use.

Notwithstanding these discouraging views the commission continued the correspondence with Mataafa, copies of which up to May 18 were sent you in my last, and on May 19 they received Tanu and his chiefs on board the *Badger*, informed him that they had come to restore peace and tranquillity to the islands, and that this, in their judgment, could not be done without a complete disarmament of all the natives and their immediate disbanding and return to their homes; that the commission would not take up the question of kingship till this was done. After a long interview (fono as they call it) Tanu and his chiefs promised to do so if the disarmament was made general, which the commission told them would be done. On Wednesday, May 20, the commission received Mataafa and his chiefs in the same way on board the *Badger*, told them what the commission had said to Tanu, reminded Mataafa of his promise on his return from Jaluit not to interere with the politics of the islands; that he had not kept his promise, and that the great powers now expected that he would use his influence to obtain a disarmament of every native under his control; that the commission had determined to use all force at their command to accomplish this result; that the harbor was full of war vessels of the great powers, others were coming, and they could summon whatever force was necessary to produce this result; that the great powers were acting only for the best interests of Samoans; that they had tried to let Samoans govern themselves and select their own king, but they would not agree, had gone to war, killed each other, killed and mutilated brave white officers and soldiers, and put in danger the lives and liberty of all; that this must cease, and the surest and quickest way to have it cease was to have them give up their arms at once and prove to the great powers that they wanted peace, and that as soon as peace was restored the commission would give them a provisional government and provide a permanent government for the future. The commission said much more to the same effect, all of which was oral and said to them through an interpreter. Mataafa then replied that his people were tired of war; that they wanted peace; that he believed the commission had come to give them peace, and that he and his chiefs would obey what the great powers told them; that if the commission thought it necessary, in order to restore peace, that the people should give up their arms they would do so, but that the arms belonged to the natives themselves, not to the great governments as did many of the guns of Tanu; that his people were poor and had paid much money for these guns, and he thought the great governments ought not to take away the property of his people without compensation. I then told him on behalf of the commission that the great powers did not wish to take the property without paying for it; that it was peace, not their property, that the great powers wanted, and that if they would immediately give up their guns and ammunition they should be kept until peace

was restored and they should then be restored to them or a fair compensation made therefor; that this offer would be held open until June 20, proximo, but that after that date all arms found in the hands of natives would be confiscated and the persons in possession thereof severely punished. Mataafa, after consultation with his chiefs, said the words of the great powers were honest and fair and they would obey, and would send the commission word when and where the guns and ammunition would be given up. I then told him that the commission believed what he told them, but they feared some bad men would keep back their guns, and that some chiefs who were not there then might not consent to what he (Mataafa) had promised. The commission therefore advised that he (Mataafa) call a great fono, or meeting, of all the chiefs, tell them what the commission had told him, and if they all agreed to what he (Mataafa) had promised, then to send word to the commission when and where they would deliver up their arms and the commission would come with their ship, receive the arms, and give to the great chiefs receipts for the same. This pleased them and they left with the promise to hold their fono and inform us at once of the result. Several letters were subsequently received—copies of which are herewith inclosed—by which Wednesday, the 31st instant, and Malua were fixed as the time and place for delivery of the arms.

On the 31st of May we proceeded on board the *Badger* to a point opposite Malua, where we found native boats about thirty in number containing about one thousand natives and high chiefs with some 1,830 rifles and a small amount of ammunition awaiting us. Mataafa and his 13 high chiefs came on board and announced that they had collected the bulk of all the guns of his people and now brought them to the commission; that some of his people had gone to the distant islands with their guns but that these would be subsequently obtained and surrendered. We received and receipted for the arms, thanked the chiefs and admonished them to immediately return to their homes and to make peace with those who had been adherents of Tanu and against whom they had been waging war. They left us apparently very happy and we returned to Apia where we commenced the same night the disarmament of the forces of Tanu. This was continued on Thursday, June 1, until all were disarmed. The British rifles, except 100 which we retained as a precaution in the hands of the native police for a few days, were returned to the British ships and the native guns were receipted for to the chiefs as in the case of Mataafa. We obtained from the Tanu forces, exclusive of the British rifles, about fourteen hundred guns, and since the disarmament every day guns and ammunition have come straggling in from both the Mataafa and Malietoa factions, so that now we have on board in all at this date about three thousand five hundred guns, a small amount of ammunition, as well as some miscellaneous weapons of defense, and it will be necessary for the treaty powers to take some early action as to the disposition of the guns in accordance with the promise of the commission. They are not very valuable, and it would be better in my judgment to have them appraised and destroyed or packed away than to have them ever again returned to the natives. Everybody, of course, including ourselves, was much gratified and somewhat surprised at the fortunate result of our experiment. It was not of course a total, but substantial, disarmament. It is estimated that perhaps 500 guns are yet in the hands of natives and some of these we may never get, but we hope before the

20th of June arrives to have obtained the larger part of the guns still remaining in their hands. I sent you with great pleasure on the 31st ultimo by the Auckland steamer, which kindly waited a few hours to learn the result of the Mataafa disarmament, the following cablegram: "Mataafa disarmed. Over 1,800 guns surrendered," which I presume you received in due time.

Immediately after the disarmament we set to work to restore the civil government of Apia and Samoa and get the people out from under military rule, of which everyone had become extremely tired. We issued at once a proclamation as to surrender of arms yet remaining in the hands of natives, a copy of which is herewith inclosed. We gradually directed the officers of the ship to withdraw sentinels from the public streets, called a city election in the West Ward of the city in which the offices of councillors was vacant, and then commenced consideration of some of the difficult questions involved in our mission. Without going into details of discussion it will suffice to say that after long discussion and in a fair spirit of compromise the commission was unanimous in their conclusion that the decision of the chief justice declaring Malietoa Tanu king, was valid and binding upon the commission, and that we must so recognize him. But we further came to the conclusion, after much discussion and many interviews with business men, missionaries, and natives themselves, that no permanent government could be maintained with an elective king. The title itself is of recent origin, the grandfather of Tanu being, in fact, the first chief crowned and anointed king. Every election or appointment of king has been followed by a revolution. A number of chiefs have always been in rebellion against the reigning king. It is at best a mere bauble, of value only as a prize for competition. It was believed that the succession had been provided for and could always be determined by the decision of the chief justice, but the history of that now former trial shows that it is always possible under the "laws and customs of Samoa"—according to which the king must be elected—to elect two or more kings at the same time, so that the decision of the court is no safeguarded against rebellion. The Samoans recognize no fixed principles of heredity; might, at last, determines not only the right of succession but the maintenance of it. I shall go into this question more at length in my final report accompanying the form of government, but for the present will only say the commission are quite unanimously of the opinion that if a tripartite government can be sustained here at all it can only be through a strong central government so guarded by checks and balances as to remove it from the petty intrigues that arise from international jealousies which are always developing under the reign of a weak native king. Having reached this conclusion we took occasion to have the new king informed of our views as to the permanent government we should recommend to the great powers. He thereupon asked an interview and orally said to us that if the kingship was to be abolished under the permanent government it would please him better, since he was anxious to resume his studies at school, if we would accept his resignation at once. We informed him that he could advise with his friends and chiefs and address us further in writing, which he subsequently did. A copy of his letter and of our reply being herewith inclosed. We therefore issued a proclamation, a copy of which is herewith inclosed, announcing our decision sustaining the decision of the chief justice, the resignation of the king, and investing

the consuls of the three powers provisionally with the official duties of the king, continuing the office and duties of the chief justice and installing Dr. Solf as president of the municipal council until the further order of the commission, which facts I announced briefly to you in my cablegram from here of the 12th instant, as follows:

“Provisional government established; Tanu resigns; kingship abolished; commission sustains decision;” which I presume was received in due time.

The provisional government has now been in force for some days and seems to be working smoothly. Great Britain has recalled her consul, Mr. Maxse, and Germany has recalled Mr. Rose, which is undoubtedly wise, since all of the officials here, more or less, have taken sides in the bitter personal and political matters which have formed a part of the recent unfortunate history of Samoa. Mr. Maxse's place will be supplied from the colonies and the vice-consul, Mr. Grunons, will act as German consul-general for the present. It is our purpose to preserve the best parts of the Berlin treaty, to have a governor or president sent here to take the place of the king, with a council having some legislative power so as to make the government somewhat more elastic than at present; to separate the municipality from the general government, making it purely local, and to give to the natives in their own districts the power of local self-government according to Samoan laws and customs. The Samoan makes a good chief, but is not broad enough to extend himself over numerous tribes and districts as king. It is believed here that this plan, when elaborated, will work harmoniously, and in theory it is even now popular with the natives. They say, “We want chief, no king.” The question of kingship, in fact, seems to be popular only with those families who deem themselves eligible thereto. When we get our plan of government perfected we shall submit it to a great fono or meeting of the leading chiefs for their approval before we present it to our own governments.

We hope to be able to perfect the draft and to be prepared to submit it to the people here in time to leave for home early in July, proximo.

Everything is now peaceable and quiet in the islands. The chiefs and warriors have returned to their homes. The smoke is now seen ascending from the native cabins and plantations in every portion of the islands. The war song is discontinued, the war camp abandoned, and the happy, joyous nature of this unvengeful people manifests itself in the ready forgiveness of their enemies and their glad welcome of returning peace.

I hope this will last until we can get the permanent government in force. They are amiable, confiding people. They still trust the white man, who has so often deceived them. They admire greatness and strength. They trust the white man because he is great and strong. One government could control them without murmur or complaint. Three may do so while unity exists, for the weakness of a tripartite government does not consist in its form but in its administration. The fever of international strife prevalent with the white people of Apia has spread into official life and become epidemic with the natives themselves. I shall dwell more at length upon these questions in my final report. I may say, however, in confidence that I have not an abiding faith in a government by three great powers over a people of a composite origin. It was Napoleon, I believe, who said, when it was desired to associate Kellermann with him in command of the army, “Better

one bad general than two good ones," and I fear the rule applies with too much force in the government by three great powers. As everyone can but believe that such a government must be temporary in character, it is to be hoped that an opportunity may soon be afforded us by which we can retire from this entangling alliance and reserve to ourselves the benefit of our original treaty with the Samoan Government. I shall visit Pago Pago next week and shall give you my further impressions of the harbor and of the islands outside of Upolu and Apia. The engineer and men are here for the construction of a wharf and coal sheds at Pago Pago and were taken there by the collier *Brutus*, they having arrived on the mail steamer from San Francisco and their vessel with supplies not having yet reached this port.

I inclose herewith concluding correspondence with High Chief Tanu and Mataafa and copies of proclamations to which I have already made reference. You will find also inclosed a photograph,^a taken at the time of the disarmament of Mataafa, showing a portion of the native boats delivering their guns on board the *Badger*, also a clipping^a from the Herald, the only newspaper in Samoa, just issued, commenting upon the work of the commission.

Should anything important further occur, I will cable you when the next steamer goes to Auckland, about June 30, instant, otherwise you will perhaps hear nothing further from me until my return to America. Any communications you desire to make will intercept me at Honolulu, in care of our consul, or at San Francisco at the Palace Hotel.

I remain, etc.,

BARTLETT TRIPP.

[Inclosure 1.—Translation.]

Mataafa to the commission.

MALIE, May 26, 1899.

GENTLEMEN: We have the honor to state to your excellencies that our fono ended as we declared it would do at our first meeting.

We accept entirely the provision respecting arms and ammunition. The guns at present with us here we will deliver up to be dealt with by you. Some men have handed over guns to their relations who have taken them away, they having heard that the war was ended through your arrival in Samoa. We are ordering all such persons to deliver up all such guns. The guns in hand will be delivered up first; the remaining guns will be delivered up when they are collected together. We have confidence in your promise that the arms will not be distributed to any persons.

We are, with respect,

MATAAFA AND 13 CHIEFS OF TUNUA AND PULE.

[Inclosure 2.]

The commission to Mataafa.

APIA, May 26, 1899.

GENTLEMEN: We have received your letter handed to us by your secretary. The three high commissioners are much gratified by your reply, in which you promise to hand over your arms to the three great powers. We will keep them and either return them to their owners or pay for them. All troops of Malietoa will be disarmed on the same day under similar circumstances.

It is the intention of the three high commissioners to attend the total disarmament of your troops in person. Your secretary has named Tuesday, May 30, but if possible we should prefer Monday. The three high commissioners will come by boat, accompanied by an escort of the three powers.

We are, gentlemen, yours, faithfully,

[Signed by the three commissioners.]

^a Not printed.

[Inclosure 3.—Translation.]

Mataafa to the commission.

MALIE, May 27, 1899.

GENTLEMEN: We received your excellencies' letter stating Monday, the 29th instant, to be the day on which you would come to Malie. I comply with this entirely; so do all our chiefs.

But we ask, with respect, that if it meets your wishes, Wednesday, the 31st instant, may be appointed, so that I may be able to bring the guns which are at Savaii, and deliver them together to you. Asking pardon for this,

We remain, yours, truly,

MATAAFA AND 13 CHIEFS OF TANUA AND PULE.

[Inclosure 4.]

The commission to Mataafa.

APIA, May 27, 1899.

GENTLEMEN: We have received your letter of the 27th instant, in which you express the desire that we postpone the day of our coming to Malie in order to witness the handing over to the three great powers of all the arms and ammunition now in the hands of your people. You name Wednesday next, May 31.

In order that no doubt may remain that all the arms have been collected, we assent to the date of Wednesday. The high commissioners will arrive off Malua early on Wednesday morning, May 31, on board their steamer, the *Badger*, and will receive the High Chief Mataafa and the thirteen chiefs on the *Badger* as soon as they arrive. The *Badger* will fly the colors of the three great powers. All arms and ammunition must be carried over from Malie to Malua, stored on the beach, and transferred from there by native boats to the *Badger*. Each chief must hand in the arms and ammunition of his district, and a receipt will be given him for the number surrendered.

We are, gentlemen, yours, faithfully,

[Signed by the commissioners.]

[Inclosure 5.]

The commission to Mataafa.

APIA, June 1, 1899.

GENTLEMEN: The high commission yesterday, upon its return to Apia, began the disarmament of the people at Mulinuu. The British rifles have been returned to the British ships of war, the rifles of the native Samoans deposited on board the *Badger*, and the guns mounted on shore will be returned to the war ships. One vessel has already carried a load of women and children to Tutuila and another leaves to-day with 700 men on board.

Malietao Tanu, who was declared King by the chief justice, will be permitted, with some of his followers, to remain at Mulinuu until the high commission can decide the question of kingship. The other chiefs have been directed to retire to their homes at once, except a small force of 100 men, which the high commission has deemed it prudent to retain at Apia for a short time as a police force for the protection of property.

The high commission has issued a proclamation calling upon all native Samoans to surrender any arms and ammunition still remaining in their possession on or before June 20, 1899. After that date all arms and ammunition found in the possession of native Samoans will be confiscated, and the person or persons found in possession thereof severely punished.

The high commission expresses its gratification at the promptness with which Mataafa and his chiefs have complied with the request to surrender their arms, and the high commission now enjoins them to immediately return to their homes, to prevent any burning of houses or looting of property, and to use every effort to bring about an immediate reconciliation between themselves and the followers of Malietao Tanu, in order that peace may at once be restored to all Samoa.

We remain, gentlemen, yours faithfully,

[Signed by the commissioners.]

[Inclosure 6.]

The commission to Malietoa.

APIA, May 27, 1899.

SIR: It will be within your recollection that when you visited us on the *Badger* you declared your readiness to disarm your troops when the commission should require it.

Mataafa has promised the commission to give up all his guns and ammunition, and he states that he is now collecting guns and ammunition from Savaii in order to deliver them to us. We shall go by steamer to Malua early on Wednesday, the 31st instant, to receive them. On our return, when Mataafa has given up his guns and ammunition, we will receive your guns and ammunition in the same way as we received his. The guns and ammunition will remain in our keeping, and when the present troubles are over we will either give them back to their owners or pay to their owners a fair compensation.

We are, sir, yours, faithfully,

[Signed by the commissioners.]

 [Inclosure*.]
Malietoa to the commission.

GOVERNMENT HOUSE, MULINUU, May 29, 1899.

SIRS: His Majesty Malietoa Tanumafili acknowledges with great respect a communication handed to him by Lieutenant Gurner, R. N., of Her Britannic Majesty's navy, and bearing the subscription of the commissioners of the three treaty powers.

His Majesty's government desires to state its entire accord with the proposal to collect all arms and ammunition of Samoans and the desire of the government to render all possible assistance to the commission.

It is understood by His Majesty that when Mataafa has delivered all guns and ammunition of his party to the commission it is required of him to disarm the troops of the government of Samoa.

It is presumed that the commission will not insist upon the delivery of arms and ammunition by the government troops until they are convinced that there has been an honest, actual compliance with the requirement made upon the Mataafa party and that all their guns have been delivered to the commissioners.

Section 1 of article 7 of the Berlin treaty provides that the government of Samoa retains the right to import "suitable arms and ammunition to protect itself and maintain order." If, therefore, the commissioners require the delivery of all arms and ammunition, thus leaving the government without available means to protect itself and maintain order, the government asks the commission to guarantee, on behalf of the three powers, such protection and order, and that the three powers will protect the lives and property of all Samoans who have conformed to the Berlin treaty from further assault or molestation by those who have defied the Berlin treaty.

His Majesty and government have faith that the three powers will keep to the treaty.

I am, your most obedient and humble servant,

MALIETOA TANUMAFILI.

 [Inclosure 8.]
The commission to Malietoa.

APIA, May 30, 1899.

SIR: In reply to your letter of May 29, we beg to state that it is our intention to first take the arms and ammunition of the Mataafa party, and after we have assured ourselves that they have disarmed, to receive your arms and ammunition. Secondly, we shall take measures to preserve order and protect every person in Mulinuu.

We are, sir, yours, faithfully,

[Signed by the commissioners.]

[Inclosure 9.]

Resignation of Malietoa.

I, Malietoa Tanumafili, having been informed by the high commissioners that the decision of the chief justice appointing me King of Samoa is valid and irreversible, but desiring to devote the next few years to my education, do hereby voluntarily and of my own accord resign the office of King of Samoa.

MALIETOA TANUMAFILI.

MULINUU, *June 10, 1899.*

[Inclosure 10.]

*The commission to Malietoa.*APIA, *June 10, 1899.*

SIR: We have had the honor to receive your communication of this day's date, stating that you have been informed by the commission that they regard the decision of the chief justice appointing you King as valid and irreversible, but that you wish to devote the next few years to completing your education, and therefore resign the kingship of this island.

In these circumstances we accept your resignation and beg to offer you our best wishes for your progress and prosperity.

We are, sir, yours, very faithfully,

[Signed by the commissioners.]

[Inclosure 11.]

DISARMAMENT PROCLAMATION.

The high commission, appointed by the three great powers to take over the government of the Samoan Islands, having, by virtue of the supreme power in them vested, and in order to maintain peace and to establish a firm and stable government, required all native Samoans to surrender their arms and ammunition, and such requirements having been in part complied with, notice is hereby given that all arms and ammunition still remaining in the hands of the native Samoans must be delivered to the commissioners at their rooms in the International Hotel, in Apia, before the 20th day of June, 1899; that receipts will be given for all arms and ammunition so received, and the same will be returned to their owners after the restoration of peace or full compensation made therefor; but that all arms and ammunition remaining in the possession of native Samoans after June 20, 1899, will be confiscated, and the person in whose possession the same may be found will be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

High Commissioner of the United States,
BARTLETT TRIPP.

High Commissioner of Germany,
H. STERNBERG.

Her Britannic Majesty's High Commissioner,
C. N. E. ELIOT.

APIA, *June 1, 1899.*

[Inclosure 12.]

PROCLAMATION CONCERNING GOVERNMENT.

Whereas the great powers of Germany, Great Britain, and the United States of America, for the purpose of restoring tranquillity in the island of Samoa and establishing a provisional government therein, have invested the high commission with supreme power and authority; and whereas, the decision of the chief justice declaring Malietoa Tanumafili to be king is considered by the high commission as valid and binding; and whereas the said Malietoa Tanumafili has voluntarily tendered to the high commission his resignation as king and the same has been duly accepted; and whereas the high commission has decided to abolish the office of king in Samoa: Now therefore,

Notice is hereby given that during the stay of the high commission in Samoa, unless orders to the contrary are issued, all the official duties of the king and his councilors will be performed by the three consuls of the great powers, a majority of whom are authorized to act in all cases where by the treaty of Berlin unanimity of action is not required. The chief justice will continue to exercise the duties of his office, Dr. Solf is authorized to enter upon the duties of his office as president of the municipal council of Apia, and all other officers of the said municipality will continue to perform the duties of their respective offices.

BATLETT TRIPP,
High Commissioner of the United States.

C. N. E. ELIOT,
Her Britannic Majesty's High Commissioner.

H. STERNBERG,
High Commissioner of Germany.

APIA, June 10, 1899.

Mr. Tripp to Mr. Hay.

No. 5.]

APIA, Samoa, July 4, 1899.

SIR: The *Brutus* leaves here to-morrow for Guam, via Honolulu, and, hoping this may intercept the San Francisco regular mail, so as to reach you sooner than by the regular steamer from Auckland, I improve the opportunity to continue the thread of political events and to inform you generally of such matters of interest as have occurred since my last.

Everything remains quiet on the island, except some disturbances of a local character, growing out of personal and individual animosities, an example of which occurred last week. A wounded man was brought into Apia, with the report that upon his attempted return to his village and home, in accordance with the previous order of the commission, he had been attacked and severely injured. We immediately sent the *Torch*, a small English gunboat of light draft, around to the scene of difficulty, had the chiefs and parties engaged in the disturbance brought on board, and found, upon inquiry, that the trouble had grown out of an old feud antedating the recent hostilities, although intensified by them; that when the wounded man and his friends sought to return home his former enemy personally attacked him, and the quarrel was taken up by friends of either party, and would have become general but for the timely arrival of the high chief, who succeeded in putting an end to it, but not before several were wounded. The chief who caused the trouble was asked by the captain of the *Torch* why he had disobeyed the orders of the commission, and he excused himself by declaring that he was personally avenging his wrongs, not disobeying the commission. The captain then informed him that he must apologize, shake hands, kiss, and make up, according to Samoan fashion, or he would be obliged to bring him before the commission. The high chief, Suetale, who was present, told the chief that he must make up and promise to allow this man and all other Malietoa men to live peacefully at their homes, or he would be deported or in some other way punished by the commission. The chief yielded at once, and all present representing the two factions—high chiefs, chiefs, and common people—made up, kissed, rubbed noses according to Samoan fashion, and left the ship promising to obey the orders of the commission in all things. One or two other smaller personal encounters have occurred, but we have treated them all in a similar manner, and nothing serious has resulted therefrom.

A few days ago we invited all the leading chiefs of the islands on board the *Badger*, and having first addressed them separately, and having obtained from them the expression of a desire to make up and to live in peace with the people of the opposite party, we brought the chiefs of both sides together and witnessed their reconciliation. It was indeed an affecting scene. They are very emotional people, and, after a few speeches made on either side in reply to our address, they extended hands, then fell on each other's necks and kissed and made all the demonstration of children in emphasizing their promises to live in peace and to use every effort with their people to induce every member of each tribe within their districts to forgive and forget and to be good friends in the future. This war, unlike those of the past, has divided nations, tribes, and kin. Tamasese, who belongs to the Tupua or Mataafa side, has been the right-hand man of Malietoa Tanu, while Faalata, the cousin of Tanu, has been an ardent supporter of Mataafa. Families, even, have been divided, and it is no unusual thing to find a father and some of his sons on the one side, while the remaining sons have been ardent partisans of the other. This will aid and make more permanent any reconciliation we may be able to bring about; for, as "blood is thicker than water," so are relations of the same blood more easily and permanently reconciled than strangers and enemies. We shall immediately bring together Mataafa, Tamasese, and Tanu, the royal chiefs, who have already manifested a willingness to meet each other. Should this prove successful, we propose to go around the islands and meet the people of each separate district in "fonos," as they call such meetings, have public reconciliations, explain the purpose of the commission in reference to the future government, and exact obedience and loyalty of the chiefs and leading men of each tribe and district. Should this terminate successfully, we hope to be able to leave the islands in such peaceful condition that it may continue until the permanent government shall have come into effective operation.

Our plan of permanent government comprises three commissioners or councilors, appointed one by each of the three great powers, and an administrator or chief executive officer of all the islands, to be appointed from some neutral nation, unless the nations agree upon some person of the nationality of one of the powers. These three councilors are to have a limited legislative power. They shall also form an executive council, advisory to the administrator, and individually may perform, at the designation of the administrator, the duties of assessor and collector of customs, treasurer, attorney-general, and other quasi-executive duties, and may also, if desired, exercise consular functions for their respective nations. The administrator will have strong executive powers, appoint all minor officers, etc., and have general supervision of the islands. The King, who was a mere figure-head, and the reasons for whose retirement I shall give at length in my final report, has forever retired, and his office has been forever abolished, with the approval of everybody, the whites as well as the natives themselves.

The extritoriality of the consuls, which has produced more difficulty and aroused and fostered more national animosity than any other one thing permitted under the Berlin act, has been abolished also, with perhaps the unanimous approval of every foreigner on the islands, and the jurisdiction of the consuls conferred upon the supreme court, which

will consist of a chief justice, as under the Berlin act. We have also enlarged the jurisdiction of the municipal magistrate, giving him jurisdiction of civil cases, which he did not before possess, to the extent of \$50, and abolished the office of president of the municipal council, providing in his place a mayor, appointed by the administrator, upon the nomination of the municipal council. You will, therefore, see that we have preserved all the main features of the Berlin act, making here and there amendments found necessary by experience and the too strict interpretation of its provisions. The principal amendments are the abolition of the kingship and the consular jurisdiction, and the granting of a limited power of legislation conferred upon the legislative council. This was found absolutely necessary under the strict construction given to the Berlin act. We found after our arrival that, as commissioners, we were obliged several times to make rules having the force of law, to prevent anarchy and punish crime in cases not provided for at all by the treaty, and it requires no argument to maintain the self-evident proposition that an act of the brevity of the Berlin treaty can not provide for every contingency that may arise in the government of islands like these. There must be provided somewhere a certain expansion or elasticity which will make the act self-adjusting. This we have aimed to provide for in the limited power of legislation given to the legislative council, subject to the control at all times of the three powers themselves. We have endeavored to retain, as far as possible, the general plan, scope, and symmetry of the Berlin act, and we believe if it be possible to maintain a tripartite government of the three great powers over these islands—I use the word “possible” with a full understanding of the doubt it implies—we are quite unanimous that it must be along the lines suggested. Such a government must be strong, simple, and economical.

The character of the people to be governed is of primary importance in the consideration of the form of government best adapted to their requirements. In these islands the government must be so simple as to be easily understood, and so strong that disobedience can be immediately punished; besides, their financial condition does not permit that the number of officials exceed those absolutely needed for a ready and intelligent administration of its functions. We have examined the question with care and can see no possible objection, should the powers so elect, to make use of the members of the legislative council as consular agents, and thereby relieve the Samoan treasury of a large part of the salary to be paid them as councilors, while their employment as treasurer, customs officers, attorney-general, etc., will give to them the advantage of the salaries paid similar officers under the present government, so that on the whole the plan proposed will be even less expensive than the present one. To obviate the possible objection that the government proposed partakes of the character of a protectorate and makes no provision for education of the natives in the matter of self-government, looking to their future autonomy or independence, we have provided for a governor in each district, to be selected by the natives, and for a native government within each district, leaving to the natives within their several districts the largest amount of individual liberty and the right of governing themselves according to their Samoan laws and customs, reserving to the Samoan government only the right to protect the natives of one district against those of another, where the rights or liberties of either are violated, or where felonies

are committed by natives against each other and are permitted to remain unpunished.

We have further provided for a native assembly, composed of the governors of the different districts, which is authorized to meet in Apia each year, and to frame such laws and make such recommendations in reference to native affairs as they may desire, and such recommendations, when approved by the administrator and council, shall have the force of law. In this way it is believed the native can be at least interested, and perhaps so far benefited that he may be able to give promise of such ability in the future as may enable him to take some part in the affairs of the general government. So far any attempt at government by the King and his councilors has been such a lamentable failure that no time has existed in the past when a large number of the most populous districts were not in open rebellion against them, and when the so-called government has not been one of violation and of easy if not corrupt control. A few gunboats may be necessary here yet for some time to give moral and perhaps effective support to the commands of the new government, but it is believed that the strong central government herein provided will not only be most acceptable to the natives themselves, but also the only government that will protect the rights and liberties of the white people, who have suffered so much from maladministration of native government in the past. In my report to the Department I shall review somewhat at length the causes that led to the unfortunate state of affairs in these islands and the reasons that actuated us in proposing the changes and amendment to the Berlin act in forming the permanent government. We shall leave the provisional government in the hands of the three consuls, with an administrator, if one can be found here satisfactory to all the commission. I shall come to Washington immediately upon my return, to make my final report and urge immediate action upon our work, so that in case the government proposed be approved it can be put in operation at the earliest possible moment.

I am happy to inform you that, while at first the minds of the different members of the commission were not quite unanimous upon all questions that came before it, by the exercise of some forbearance and the wisdom that comes from diplomatic experience we have on the whole reached conclusions reasonably satisfactory to each member of the commission. I can not speak too highly of the conduct of the German member of the commission. With one less experienced, less honorable and conscientious, representing the great Empire of Germany, our task would not only have been difficult, but I fear a hopeless and unprofitable one. We are now nearly through with our labors here, and should nothing occur to indicate that peace is not fully restored, we shall hope to leave here about July 14 for San Francisco and home, bringing with us a unanimous report of our work, supplemented by individual and confidential reports each to his own Government.

You will therefore not probably hear from me again until my arrival in America, and not again as to matters here except as may be contained in my final report. I hope, however, to have the pleasure of saying to you orally some things so difficult and some perhaps not well to be committed to paper, which will give you a better understanding of our work than my dispatches or report can possibly do.

I have, etc.,

BARTLETT TRIPP.

Mr. Tripp to Mr. Hay.

No. 6.]

APIA, SAMOA, July 13, 1899.

SIR: I have the honor to inform you that since my last dispatch, bearing date of July 4, 1899, the commission has visited the islands of Savaii, Manono, Apolima, and the different districts of Upolu, holding nine large meetings, or fonos, one in each district of the separate islands. The meetings were very largely attended and reconciliation was made between the followers of Malietoa and Mataafa, which seemed to be sincere and genuine. At these meetings all the high and common chiefs met the commissioners at their fono, or meeting places, addressed them in long Samoan speeches eloquent with gratitude for their restoration of peace, the abolition of the kingship, and the preparation for them of a good government.

At these meetings the commission took occasion to explain the reasons for the proposed abolition of the kingship; that the election of a king had always brought them war; in the past some portion of the islands has always been in rebellion against the King; that a strong government is necessary in these islands to protect the interests of the natives as well as those of the white men, and therefore the commission believed it better that there should be no king, but that some good white man should be sent to take his place. To this the chiefs almost unanimously responded that they were glad this troublesome question was at an end; that Samoans were born chiefs, not kings, but that kings had to be made by the chiefs; that all the great chiefs wanted to be king and war must always inevitably result, for only the chief who proved himself most powerful in war could finally be king. It was better, therefore, that the chiefs should rule, as they were born to rule, in their districts, and that the white man's government should protect them against other nations and against themselves. The meetings were very interesting and the commission had much opportunity to observe the native as he is—in his village and at his home. They are an amiable, simple people, confiding yet suspicious and jealous, emotional yet subtle and diplomatic, excitable yet crafty and cunning. They are contradictory, unlike others and unlike themselves. Their behavior at times takes on the appearance of treachery, but this phase of conduct it is believed arises from the kaleidoscopic side of their character—their passionate, emotional nature, which prompts to change of purpose and action—than a predetermined intention to violate faith or solemn promises. Their thought bursts into action like dynamite from any sudden cause, and they become again gentle and mild when the excitement once has passed, harboring no malice and exhibiting no feelings of resentment or revenge. They are reconciled as quickly as they are angered. The government of such people must be a strong and active one. A quick rather than a powerful restraint is necessary to maintain order and inspire confidence among them. We have called a meeting of all the important chiefs of the island to meet here to-morrow, at which time we shall explain fully to them all the changes proposed in the government under the treaty of Berlin and obtain from them a sanction to the changes so proposed. If the meeting is satisfactory and everything succeeding the meeting indicates a continuance of peace, as would now appear most probable, the commission intends to leave here on Monday or Tuesday, July 17 or 18, for San Francisco and home.

The commission, as I wrote you in my last, has agreed upon all the

essential matters of difference existing here. The causes of the hostilities in existence at the time of our arrival here have also been stated by the commission in their joint report. These causes will be amplified and perhaps qualified by the individual commissioners in their separate reports to their own Governments. The joint report is now agreed upon and will be extended, signed, and forwarded to you by the next mail, and my individual report will follow at the earliest moment possible.

The guns taken from the natives we are obliged to take with us to San Francisco. We do not dare to leave them on shore for fear they might, in case of an outbreak, be seized by the natives again, and the knowledge that they were so stored might be an incentive to insurrection. We tried to get the three war vessels in the harbor to take them, but they have no room on board; so we have concluded to take them to San Francisco and leave them at Mare Island until their disposition is determined upon by the powers. We have taken the precaution to have these arms appraised by officers detailed by the three powers, and I will send you the number of guns, which amounts approximately to 3,400, and their value as appraised, in my final report.

I have, etc.,

BARTLETT TRIPP.

The Commission to Mr Hay.

APIA, SAMOA, *July 18, 1899.*

SIR: We have the honor to submit herewith to the consideration of our three Governments the inclosed draft of a modified and amended version of the act of Berlin.

In preparing these modifications and amendments our method has been to consider, first, what are the evils which have caused the recent troubles in Samoa and the generally unsatisfactory condition of the islands, and, secondly, what are the measures most likely to remove or minimize these evils.

The chief evils may be, in our opinion, grouped under four heads:

1. Those which appear to inevitably attend the election of a king in Samoa and his subsequent efforts to exert his authority.

2. Those which are due to the rivalry of the foreign nationalities between themselves and to their disposition to take sides in the native politics and thus increase the importance and bitterness of the disputes which arise.

3. A third class of evils have their origin in the fact that for many years there has been no law or government in Samoa other than native custom outside the limits of the municipality. Murder and other serious crimes have remained unpunished when committed by persons of rank, and the supreme court and the nominal government at Mulinuu have been equally powerless to exert any controlling force.

4. The insufficient enforcement of the customs regulations has allowed unscrupulous traders to distribute large numbers of arms among a native population rent by political factions and ready to fight both one another and Europeans.

To meet the first of these evils we have temporarily abolished the kingship and recommend that it be permanently abolished. The action

which we have taken in the matter does not appear to have aroused any hostile feeling among the natives.

No doubt many great chiefs regret that they will no longer have an opportunity of gratifying their ambitions and indulging that passion for rank and ceremony which is innate in the breast of every Samoan.

But even the chiefs have acquiesced in the change; some of the most important have stated that they think it is for the good of Samoa, and we believe that the mass of the population, unless worked upon by extraneous influences (which is unhappily not impossible), will assent to the abolition without a murmur and without regret.

Every white man, German, English, and American alike, who has given evidence before the commission (with the exception of one or two lawyers who had private interests in the case) has recommended the commission to do away with the kingship, and we may also refer to the opinion of Sir E. Malet, recorded in the protocols of the conference of Berlin, and of Mr. Bates, in his report on Samoa.

It seems impossible to say of the office any good whatever. It is comparatively modern as an institution. It served no useful purpose. In recent years at any rate the King had no authority or practical power to even collect taxes beyond the limits of the municipality, and within those limits his authority was superfluous. The greater part of the population was for all intents and purposes in permanent rebellion against him, and the mere fact that orders were issued through him was liable to provoke disobedience in many districts.

Further, it seems impossible to devise any plan by which an undisputed or even peaceful succession can be secured. The kingship depends on a grant of certain titles by certain districts. They are in the gift not of the whole population, but of small bodies of electors who owe their position to their rank. Even among these electors the principle that the majority of the vote bestows the title is not accepted, and the gist of all the "laws and customs of Samoa" is that there is nothing to prevent two candidates from being duly elected King at the same time.

Formerly the claims of such rivals were decided by force of arms, but the framers of the act of Berlin, who evidently thoroughly understood Samoan custom and practice in this matter, laid down that "questions respecting the rightful appointment of King shall not lead to war, but shall be presented for decision to the chief justice of Samoa." Recent experience has unhappily proved that an attempt to settle the question in this way also leads to war, and we are therefore strongly of opinion that the only chance of preventing such dissensions in the future is to abolish the office which provokes them.

In the place of the kingship we propose to create a system of native government, analogous to that which works successfully in Fiji. The islands will be divided into certain administrative districts (corresponding as near as possible with those recognized by Samoan usage) for each of which a chief will be responsible, and these chiefs will meet annually at Apia in a native council to discuss such matters as interest them and make recommendations to the administrator and council. Native courts will be allowed to punish minor crimes according to native law and customs, and every provision has been made to secure the Samoan population complete independence and self-government.

We fear, however, that the same causes which produced rival kings

will long continue to produce rival chiefs, who will claim the post of provincial governor and create continual dissension. To guard against this danger we have made provisions in Article III which empowers the administrator to himself appoint the governor in case any dispute should occur.

Perhaps the evils which it is least easy to cure are the second class, those which arise from the rivalry and mutual hostility of the different nationalities. This hostility permeates all departments of life. The traders on one side combine against those on the other. The municipal council is divided into two parties, each determined to support its own programme and defeat that of the other.

Proposed reforms and measures are judged not on their merits, but by party consideration, and officials, however impartial they may wish to be, are considered to belong to one side or the other, according to their nationality, and inevitably end by becoming more or less partisans.

From the very commencement of the late contest for the kingship it was no mere native quarrel between Mataafa and Tanu. On the one side were ranged one foreign nationality and its officials, and on the other side two other nationalities, with their officials; and the contest was prolonged and not allowed to reach its natural termination.

We do not think it will ever be possible to do away with this state of things under a tripartite administration, and we take this opportunity of recording our opinion that the only natural and normal form of government for these islands, and the only system which can assure permanent prosperity and tranquillity, is a government by one power. We regard it, however, as beyond our province to make any but a general statement on such a subject, and we have endeavored to amend existing arrangements in such a manner that they may prove, if not entirely satisfactory, at least workable.

We propose to introduce an element of unity and centralization into the government by the appointment of an administrator, who will doubtless be chosen from some disinterested power. He will be assisted by a council of delegates from the three governments, who might exercise such consular functions as are necessary at Samoa. We propose to give this administrator a large measure of authority, which, if exercised by a just and capable man, should enable him to put an end to many disputes.

We propose that the administrator and the three delegates should form a legislative council, and we have introduced into the act several clauses giving them the power to modify existing laws and ordinances.

We are of opinion that the original act of Berlin was drafted and has been construed in too rigid a manner, and that greater elasticity in its provisions would have a beneficial effect. We have therefore empowered the council to make such alterations as it may think fit in the boundaries of districts, the details of native government, and other matters enumerated in the proposed amended act.

Thirdly, we hope to create a greater harmony among the white residents by abolishing consular jurisdiction. We believe that in other parts of the world such jurisdiction prevails only where the laws of a country are, for religious or other reasons, not suitable for application to foreigners. But the chief justice of Samoa is an American or European and administers American and European law; it would appear therefore that there is no reason why he should not take cogni-

zance of all suits brought against foreigners, nor why foreigners should enjoy privileges of extraterritoriality except that of being amenable to the jurisdiction of native courts which will deal only with such matters as are decided according to native custom. Hitherto consular jurisdiction has been a powerful means of embittering international strife in Apia. Each nationality has had its own law, and the consul who administered that law was popularly regarded not as an impartial judge, but as the protector of his own nationality.

We believe that by abolishing this outward sign of separate national institutions and by submitting all nationalities to one court and one law a great advance will be made in the direction of removing petty rivalries and jealousies and restoring good relations between the various white colonies.

The third class of evils arises from the lawlessness now prevailing in Samoa outside the municipality. For many years there has been no law in these districts, and native institutions permitted chiefs to commit crimes with impunity. Murder, theft, and other offenses were left unpunished, and trade suffered, owing to the difficulty of affording planters adequate legal protection in their dealings with the aborigines. We hope to improve this state of things by giving the chief justice an enlarged jurisdiction over all the islands, so as to include all cases between natives and foreigners, as well as the higher grade of crimes committed by natives against each other.

To lighten the work of the supreme court we have made the municipal magistrate a court of first instance within the limits of the municipality.

Fourthly, we have felt it our duty to deal somewhat severely with the importation of arms and ammunition into Samoa. The prohibition existing in the treaty has become a dead letter; the management of the customs has been exceedingly lax, having been largely in the hands of merchants who naturally found it convenient to have easy regulations. Private commercial houses have been allowed to discharge goods direct into their own receiving sheds without any examination, and, though we make no specific accusations, it is clear that there can have been no difficulty in introducing large quantities of arms and that arms were so introduced.

We therefore feel it essential that the customs regulations should be stringently enforced under the supervision of the administrator, and that adequate customs accommodation with an adequate staff shall be provided with as little delay as possible.

The amendments to the treaty of Berlin, which are herewith submitted for the consideration of the great powers, have been determined upon after consultation with all the leading white inhabitants of Apia, and after conferences with all the leading chiefs on the islands.

The commission visited every district of the islands in person, and held meetings of the natives, brought about reconciliations between the Tanu and Mataafa factions, and learned the views of the people in regard to the forms of native government most acceptable and best adapted to their requirements.

The commission thereafter, on the 14th of July, 1899, so soon as it had formulated its views and determined upon the amendments necessary and proper to be made, called a meeting of all the leading and common chiefs of both Malietoa and Mataafa factions at Apia, at which meeting about 450 chiefs of all rank were present, and the commissioners there explained the general propositions contained in the

proposed amendments, and the same were then and there agreed to and unanimously adopted, and thirteen chiefs from either side were selected to ratify and adopt such proposed amendments by affixing their names thereto, and their names will be found appended to the copy of the amended general act which is herewith submitted.

We have the honor to be, with expression of the highest consideration,
Your obedient servants,

BARTLETT TRIPP,
Commissioner of the United States.
H. STERNBURG,
High Commissioner of Germany.
C. N. ELLIOT,
Her Britannic Majesty's High Commissioner.

ARTICLE I.

A DECLARATION RESPECTING THE NEUTRALITY OF THE ISLANDS OF SAMOA AND ASSURING TO THE RESPECTIVE CITIZENS AND SUBJECTS OF THE SIGNATORY POWERS EQUALITY OF RIGHTS IN SAID ISLANDS AND PROVIDING FOR THE IMMEDIATE RESTORATION OF PEACE AND GOOD ORDER THEREIN.

It is declared that the islands of Samoa are neutral territory in which the citizens and subjects of the three signatory powers have equal rights of residence, trade, and personal protection. None of the powers shall exercise any separate control over the islands or the government thereof.

It is further declared, with the view to the permanent restoration of peace and good order in the said islands and in view of the difficulties which have always attended the selection of a King and the maintenance of his authority against the frequent rebellions incited by the rival chiefs, that the office and title of King is and forever shall be abolished in Samoa, and that the authority of chiefs therein shall hereafter be limited to the district in which it may be recognized, as hereinafter provided.

ARTICLE II.

A DECLARATION RESPECTING THE MODIFICATION OF EXISTING TREATIES.

Considering that the following provisions of this general act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the three powers, respectively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this act shall be inconsistent with any provisions of such treaty or treaties the provisions of this act shall prevail.

ARTICLE III.

A DECLARATION AS TO EXECUTIVE POWERS.

The executive powers shall be vested in an administrator of Samoa, who shall be appointed by the three signatory powers in common accord, or, failing their agreement, by the King of Sweden and Norway.

He shall receive an annual salary of (\$6,000) six thousand dollars in gold or its equivalent, to be paid out of the revenues of the Samoan Government. Any deficiency therein shall be made good by the three powers in equal shares.

The administrator shall execute all laws in force in the islands of Samoa. He shall have power to grant reprieves and pardons for offenses against the Government of Samoa. He shall have power, by and with the consent and advice of the executive council, to appoint all officers whose appointment is not herein otherwise provided for. He shall have the power to fill all vacancies in office temporarily, and until appointments to such offices shall have been regularly made, and to designate persons to act in place of officers temporarily absent from Samoa.

It shall be the duty of the administrator, by and with the consent of the executive council, to divide the islands of Samoa, outside of the municipal district of Apia, into a suitable number of districts, which may, from time to time, be increased or decreased in size and number as deemed advisable, and in each district to appoint a governor who shall be charged with the collection of all taxes and with the maintenance of peace and good order within the district. The governors shall hold their office for a term of three years. They may be reappointed at the expiration of the term, and they may at any time be removed by the administrator for misbehavior. They shall be appointed on the nomination of the natives of their districts, but should the natives fail to agree upon a nomination the administrator shall appoint such chief of the district as he thinks fit. The local government of such districts shall be left, so far as may be, to be administered by the natives themselves in accordance with the laws and customs of Samoa.

ARTICLE IV.

A DECLARATION AS TO LEGISLATIVE POWERS.

1. The legislative powers shall be vested in the administrator and legislative council. The council shall consist of three members, one of whom shall be appointed by the United States, one by the Empire of Germany, and one by the United Kingdom of Great Britain and Ireland.

The administrator and council shall constitute a legislative body, of which the administrator shall be the president, and he shall have a voice in considering and a vote in determining all questions that may come before it.

Three of the four members composing the legislative body shall constitute a quorum for the transaction of business:

Provided, however, That no law shall be enacted and that no rule or regulation having the force of law shall be made without the concurrence of at least three members in open session.

The legislative power of the administrator and council shall extend to all rightful subjects of legislation, and in particular they shall have power to levy and collect such taxes, duties, imposts, and excises as may be necessary for the public revenues, and for this purpose they shall have power to change and modify the taxes, duties, imposts, and excises provided for in this act.

They shall have power to establish post-offices, post-roads, and a uniform postal system. They shall have power to establish municipal and district government and to limit and define their powers.

But the three great powers reserve to themselves at all times the right and power to modify or annul any legislative act of the Samoan Government.

2. The members of the legislative council shall also constitute an executive council, which shall from time to time counsel and advise the administrator in his executive capacity as may be required.

The members of the legislative and executive councils shall also, when designated by the administrator, act in the capacity of assessor and collector of customs and revenues, treasurer, attorney-general, and such other executive officers of the government as may be provided for.

They may also, if required, act in the capacity of consuls or consular agents of their respective Governments.

3. There shall be a native assembly composed of the governors of the different districts of the islands. The members of the native assembly shall hold their office for three years, but the administrator shall have the power to dismiss any of them for misbehavior. The native assembly shall meet annually at Mulinuu at such times as may be designated by the administrator, but such session shall not continue for a longer time than thirty days in one year, except for reasons approved by the administrator. The native assembly shall be presided over by the chief justice, or some other white official designated by the administrator, but the president so designated shall not have a vote and his functions shall be merely to control and direct the proceedings of the assembly with a view to the dispatch of business. The native assembly shall be empowered to deal with all questions concerning district government, including native courts, and with all matters which affect natives only. Its resolutions and recommendations shall be referred to the administrator and legislative council, who shall approve, disapprove, or return them with such modifications as they may deem proper: *Provided always,* That no resolution or other action of the native assembly shall have any binding force or effect until the same shall have been approved by the administrator of the legislative council.

ARTICLE V.

A DECLARATION RESPECTING THE ESTABLISHMENT OF A SUPREME COURT OF JUSTICE FOR SAMOA, AND DEFINING ITS JURISDICTION.

SECTION 1. A supreme court shall be established in Samoa to consist of one judge, who shall be styled "chief justice of Samoa," and who shall appoint a clerk and all necessary officers of the court; and record shall be kept of all orders and decisions made by the court, or by the chief justice in the discharge of any duties imposed on him under this act. The clerk and other officers shall be allowed reasonable fees, to be regulated by order of the court.

SEC. 2. With a view to secure judicial independence and the equal consideration of the rights of all parties, irrespective of nationality, it is agreed that the chief justice shall be appointed by the three signatory powers in common accord; or, failing their agreement, he may be appointed by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honor, impartiality, and justice.

His decision upon questions within his jurisdiction shall be final. The three powers, however, reserve to themselves the right to modify or annul decisions of the supreme court involving any question of a political or administrative character or principle of international law. He shall receive an annual salary of five thousand dollars (\$5,000) in gold or its equivalent, to be paid out of the revenues of the Samoan Government. Any deficiency therein shall be made good by the three signatory powers in equal shares.

The powers of the chief justice, in case of a vacancy of that office from any cause, and during any temporary absence of the chief justice from the islands of Samoa, shall be exercised by such person as may be designated by the administrator.

SEC. 3. In case any of the four Governments shall at any time have cause of complaint against the chief justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and, if in the judgment of such authority there is sufficient cause for his removal, he shall be removed. If the majority of the three treaty powers so request, he shall be removed. In case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

SEC. 4. The chief justice is authorized at his own discretion, and upon the written request of either party litigant, to appoint assessors or jurors, not exceeding three in number, nor of the nationality of either party, to hear and determine any issue of fact arising in the case.

SEC. 5. In case any difference shall arise between either or any of the treaty powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the chief justice of Samoa, who shall make his decision thereon in writing.

SEC. 6. The chief justice may recommend to the government of Samoa the passage of any law which he may consider just and expedient for the prevention and punishment of crime, and for the promotion of good order in Samoa and the welfare of the same.

SEC. 7. The supreme court shall have original and final jurisdiction of:

- (1) All questions arising under the provisions of this amended general act.
- (2) All civil suits concerning real property situated in Samoa and all rights affecting the same.
- (3) All civil suits of any kind between natives and foreigners, or between foreigners irrespective of their nationality.
- (4) All crimes and offenses committed by natives against foreigners, by foreigners against natives, or by foreigners against each other irrespective of nationality, except violations of municipal ordinances and regulations of which the municipal magistrate is given jurisdiction.
- (5) Of all felonies committed by natives against each other.

SEC. 8. The supreme court shall have appellate jurisdiction over all municipal magistrates and municipal courts in civil cases where the amount of the judgment rendered exceeds \$10 and in criminal cases where the fine exceeds \$20, or the imprisonment (10) ten days.

SEC. 9. The practice and procedure of common law, equity, and admiralty, as administered in the courts of England, may be so far as applicable the practice and procedure of this court; but the court may modify such practice and procedure from time to time as shall be required by local circumstances. Until otherwise provided by law, the court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of

Germany, as the chief justice shall decide most appropriate; or in the case of native Samoans and other natives of the South Sea Islands according to the laws and customs of Samoa.

SEC. 10. Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels, nor shall the court take any ex post facto or retroactive jurisdiction over crimes or offenses committed prior to the organization of the court. The supreme court shall have power to issue writs of injunction, attachment, mandamus, and other remedial writs known to the common law. The writ of habeas corpus shall not be suspended except in time of actual war.

SEC. 11. The legislative council shall have power to create and provide such other and inferior courts and judicial tribunals in Samoa as from time to time may be found necessary and proper: *Provided*, That the jurisdiction of the courts and judicial tribunals so created shall not extend to civil cases involving an amount or property exceeding in value \$50, nor to criminal cases where the penalty exceeds a fine of two hundred dollars (\$200) or imprisonment for a longer term than one hundred and eighty days.

SEC. 12. The chief justice shall hold terms of the supreme court in Apia and at such other places in the islands of Samoa as in his discretion may be necessary and proper.

ARTICLE VI.

A DECLARATION RESPECTING TITLES TO LAND IN SAMOA AND RESTRAINING THE DISPOSITION THEREOF BY NATIVES; AND PROVIDING FOR THE REGISTRATION OF VALID TITLES.

SECTION 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage, or otherwise, shall be prohibited, subject to the following exceptions:

(a) Town lots and lands within the limits of the municipal district as defined in this act may be sold or leased by the owner for a just consideration when approved in writing by the chief justice of Samoa.

(b) Agricultural lands in the islands may be leased for a just consideration and with carefully defined boundaries for a term not exceeding fifty (50) years when such lease is approved in writing by the chief executive authority of Samoa and by the chief justice; but care should be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

SEC. 2. The court shall make provision for a complete registry of all valid titles to land in the islands of Samoa which are or may be owned by foreigners or natives.

SEC. 3. All lands acquired before the 28th day of August, 1879—being the date of the Anglo-Samoan treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith for a valuable consideration in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the court.

ARTICLE VII.

A DECLARATION RESPECTING THE MUNICIPAL DISTRICT OF APIA, PROVIDING A LOCAL ADMINISTRATION THEREFOR AND DEFINING THE JURISDICTION OF THE MUNICIPAL MAGISTRATE.

SECTION 1. The municipal district of Apia is defined as follows: Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of river Fuluasa, thence following the course of the river upward to a point at which the Alafuala road crosses said river, thence following the line of said road to the point where it reaches the river Vaisinago, and thence in a straight line to the point of beginning at Vailoa, embracing also the waters of the harbor of Apia: *Provided*, That the administrator and council shall have power to interpret, limit, and define the boundary of the municipal district of Apia.

SEC. 2. Within the aforesaid district shall be established a municipal council consisting of six members and a mayor, who shall preside at all meetings of the council and who shall, in the case of an equal division, have a casting vote. The mayor shall be appointed by the municipal council with the approval of the administrator.

In case the municipal council shall be unable to come to an agreement they shall submit to the administrator the names of the candidates whom they recommend for the office of mayor, and the administrator shall choose the mayor from among them.

The mayor and the councilors shall be residents of the said district, and owners of real estate, or conductors of a profession or business in said district which is subject to a rate or tax not less in amount than \$5 per annum.

For the purpose of the election of members of the council the said district shall be divided into three electoral districts, from each of which an equal number of councilors shall be elected by the taxpayers thereof, qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election. It shall be the duty of the administrator to make the said division into electoral districts as soon as practicable.

Subsequent changes in the number of councilors or the number and location of electoral districts may be provided for by municipal ordinance, subject to reference to the administrator as hereinafter provided.

The mayor shall hold his office for one year and until his successor shall be elected and qualified.

The councilors shall hold their office for a term of two years and until their successors shall be elected and qualified.

In the absence of the mayor the council may elect a chairman pro tempore.

Consular officers shall not be eligible as councilors or mayor, nor shall councilors or mayor exercise any consular functions during their term of office.

Each member of the municipal council, including the mayor, shall, before entering upon his functions, make and subscribe before the chief justice an oath or affirmation that he will well and faithfully perform the duties of his office.

Sec. 3. The municipal council shall have jurisdiction over the municipal district of Apia so far as necessary to enforce therein the provisions of this act which are applicable to the said district, including the nomination of a municipal magistrate, who shall be appointed in the same manner as the mayor. The council shall also have the power to appoint all necessary subordinate officers of justice and of administration in the said district, and to provide for the security of person and property therein; and to assess such municipal rates and taxes as they may agree upon; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said district and not in conflict with this act, including sanitary and police regulations.

They shall establish pilot charges, port dues, quarantine, and other regulations of the port of Apia. They shall also fix the salary of the municipal magistrate, and establish the fees and charges allowed to other municipal officers of the district.

All ordinances, resolutions, and regulations shall be referred by the municipal council to the administrator, who shall express his consent or disapproval or suggest amendments: *Provided always*, That no ordinances, resolutions, and regulations passed by this council shall become law before receiving the approval of the administrator.

Sec. 4. The municipal magistrate shall have exclusive jurisdiction in the first instance over all persons, irrespective of nationality, in case of infraction of any laws, ordinances, or regulations passed by the municipal council, in accordance with the provisions of this act, and of all misdemeanors committed within the municipal district of Apia: *Provided*, That the penalty does not exceed a fine of \$200 or imprisonment for a longer term than one hundred and eighty days, with or without hard labor. The municipal magistrate shall always have jurisdiction within the municipality of Apia in all civil suits not affecting the right of real property between natives and foreigners, or between foreigners irrespective of nationality, where the value of the property or the amount involved does not exceed the sum of \$50.

Sec. 5. The mayor shall superintend the harbor and quarantine regulations, and shall be in charge of the administration of the laws and ordinances applicable to the municipal district of Apia.

Sec. 6. The administrator and council shall fix an annual sum to be paid out of the revenues of the island to the municipal council for the expenses of the municipal government and the execution of public works.

ARTICLE VIII.

A DECLARATION RESPECTING TAXATION AND REVENUE IN SAMOA.

Sec. 1. Until otherwise provided by law the port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares, and merchandise landed on the islands shall be there entered for examination; but coal and naval stores which either Government has by treaty reserved the right to land at any harbor stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SEC. 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the islands the following duties, taxes, and charges may be levied and collected:

A. Import duties.

1. On ale and porter and beer	per dozen quarts..	\$0. 50
2. On spirits	per gallon..	2. 50
3. On wine, except sparkling	do.....	1. 00
4. On sparkling wine	do.....	1. 50
5. On tobacco	per pound..	. 50
6. On cigars	do.....	1. 00
7. On sporting arms	each.....	4. 00
8. On gunpowder	per pound..	. 25
9. Statistical duty on all merchandise and goods imported, except as aforesaid	ad valorem..	2 p. c.

B. Export duties.

On copra	ad valorem..	2½ p. c.
On coffee	do.....	2 p. c.
On cotton	do.....	1½ p. c.

C. Taxes to be annually levied.

1. Capitation tax on Samoans and other Pacific Islanders over the age of 18 and under the age of 45 years, not included under No. 2....	per head..	\$2. 00
2. Capitation tax on colored plantation laborers, other than Samoans, per head	2. 00
3. On boats, trading and others (excluding native canoes and native boats carrying only the owner's property)	each..	4. 00
4. On firearms	do.....	2. 00
5. On dwelling houses (not including the dwelling houses of Samoan natives) and on land and houses used for commercial purposes....	ad valorem..	1 p. c.
6. Special taxes on traders as follows:		

Class I.

On stores of which the monthly sales are \$2,000 or more.....	each..	\$100. 00
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Class II.

Below \$2,000 and not less than \$1,000.....	each..	\$48. 00
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Class III.

Below \$1,000 and not less than \$500	each..	\$36. 00
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Class IV.

Below \$500 and not less than \$250	each..	\$24. 00
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Class V.

Below \$250	each..	\$12. 00
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D. Occasional taxes.

1. On trading vessels not exceeding 100 tons burden, calling at Apia, each call.....	\$10. 00
2. Upon deeds of real estate, to be paid before registration thereof can be made, and, without payment of which title shall not be held valid, upon the value of the consideration paid	½ p. c.
3. Upon other written transfers of property, upon the selling price	1 p. c.
Evidence of the payment of the last two taxes may be shown by lawful stamps affixed to the title paper, or otherwise by the written receipt of the proper tax collector.		
4. Unlicensed butchers in Apia shall pay upon their sales.....	1 p. c.

E. License taxes.

No person shall engage as proprietor or manager in any of the following professions or occupations except after having obtained a license therefor, and for such license the following tax shall be paid in advance:

Tavern keeper	per month..	\$10. 00
Attorney, barrister, or solicitor	per annum..	60. 00
Doctor of medicine or dentistry	do	30. 00
Auctioneer or commission agent	do	40. 00
Baker	do	12. 00
Banks or companies for banking	do	60. 00
Barber	do	6. 00
Blacksmith	do	5. 00
Boat builder	do	6. 00
Butcher	do	12. 00
Cargo boat or lighter	do	6. 00
Carpenter	do	6. 00
Photographer or artist	do	12. 00
Engineer	do	12. 00
Engineer assistants	do	6. 00
Engineer apprentices	do	3. 00
Hawker	do	1. 00
Pilot	do	24. 00
Printing press	do	12. 00
Sailmaker	do	6. 00
Shipbuilder	do	6. 00
Shoemaker	do	6. 00
Land surveyor	do	6. 00
Tailor	do	6. 00
Waterman	do	6. 00
Salesmen, bookkeepers, clerks, paid less than \$75 a month	do	3. 00
Salesmen, bookkeepers, clerks, when paid \$75 a month and over	do	6. 00
White laborers and domestics, per head	do	5. 00
Factory hands and independent workmen	do	5. 00

SEC. 3. It is understood that "dollars and cents," terms of money used in this act, describe the standard money of the United States of America, or its equivalent in other currencies.

ARTICLE IX.

A DECLARATION RESPECTING ARMS AND AMMUNITION AND INTOXICATING LIQUORS,
RESTRAINING THEIR SALE AND USE.

SEC. 1. The importation into the islands of Samoa of arms and ammunition by the natives of Samoa or by citizens and subjects of any foreign country is prohibited, except in the following cases:

(a) Guns and ammunition for sporting purposes for which written license shall have been previously obtained from the administrator.

(b) Small arms and ammunition carried by travelers as personal appanage.

The supply of arms and ammunition by any foreigner to any native Samoan subject or other Pacific islander resident in Samoa is prohibited.

The penalty for so supplying arms shall be a fine not exceeding (\$2,500) two thousand five hundred dollars, or a term of imprisonment not exceeding two years or both, in the discretion of the court, and the arms shall be confiscated. Half the fine shall go to the informer.

Any native found in the possession of arms or ammunition other than such as are used for sporting purposes shall be liable to a fine not exceeding (\$200) two hundred dollars, and a term of imprisonment not exceeding six months or both, in the discretion of the court, and the arms shall be confiscated. Half the fine shall go to the informer.

The Samoan government retains the right to import free of duty suitable arms and ammunition to protect itself and maintain order.

All arms without exception coming into Samoa shall be entered at the customs and marked there with a stamp, and the possession by any Samoan or foreigner of any arms not so stamped shall be prima facie evidence that such arms were imported in violation of law.

The three Governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of arms in Samoa.

SEC. 2. No spirituous, vinous, or fermented liquors, or intoxicating drinks whatever, shall be sold, given, or offered to any Samoan or South Sea Islander resident in Samoa to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this section shall be established by the administrator and council.

SEC. 3. *General customs regulations.*—It is hereby provided that no person or persons in Samoa shall enjoy any immunity from a strict examination by the customs of all articles imported. All goods shall be landed at the receiving sheds of the customs. The administrator and council are authorized to enact laws and ordinances providing for custom-house regulations, with suitable penalties for breach of the same.

ARTICLE X.

The provisions of this act shall continue in force until changed by consent of the three powers. Upon the request of either power, after three years from the signature hereof, the powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this amended general act. In the meantime, any special amendment may be adopted by the consent of the three powers with the adherence of Samoa: *Provided, however,* That no amendment of any section or article of this amended general act shall in any way affect private rights acquired under such section or article prior to such amendment.

In evidence of our approval and ratification of the foregoing amended general act pertaining to the government of Samoa, we, the high chiefs and chiefs constituting the district governments of the islands of Samoa, have hereunto affixed our hands and seals at Apia, on the island of Upolu, this 17th day of July, A. D. 1899.

MALIETOA-TANUMAFILI. [SEAL.]
TUPUA TAMASESE. [SEAL.]

ALLEN WILLIAMS, *Interpreter.*

17TH JULY, 1899.

We hereby certify that we witnessed the signatures of Malietoa Tanumafili and Tupua Tamasese, the within document having been explained, read, and interpreted to them and they appearing to understand the meaning of the same.

HAMILTON HUNTER,
Acting British Consul.

LESLIE C. STUART,
Captain R. H.

W. JOHNSTON, Jr.,
British Consular Clerk.

In evidence of our approval and ratification of the foregoing amended general act pertaining to the government of Samoa, we, the high chiefs and chiefs constituting the district governments of the islands of Samoa, have thereunto affixed our hands and seals at Apia, on the island of Upolu, this 15th day of July, A. D. 1899.

[13 signatures.]

I hereby certify that the above and foregoing signatures of the thirteen Mataaafa chiefs were made and affixed in my presence and in the presence of the high commissioners at Apia on the 15th day of July, 1899.

EDWIN MORGAN,
Secretary to the Commission.

In evidence of our approval and ratification of the foregoing amended general act pertaining to the government of Samoa, we, the high chiefs and chiefs constituting the district governments of the islands of Samoa, have thereunto affixed our hands and seals at Apia, on the island of Upolu, this 15th day of July, A. D. 1899.

[13 signatures.]

I hereby certify that the above and foregoing signatures of the thirteen Tanu chiefs were made out and affixed in my presence and in the presence of the high commission at Apia on the 15th day of July, 1899.

EDWIN MORGAN,
Secretary to the Commission.

Mr. Tripp to Mr. Hay.

FINAL REPORT—AFFAIRS IN SAMOA.

AUGUST 7, 1899.

SIR: In addition to the joint report of the commission made to the three powers, I have deemed it my duty under your instructions to state more elaborately and somewhat more in detail the reasons which have actuated and controlled our action in the determination of the various matters submitted to our consideration.

We were charged with two important and independent duties. First, to restore tranquillity and order and undertake a provisional government of the islands; second, to consider the provisions which might be necessary for the future government of the islands or for the modification of the final act of Berlin and report our conclusions to the three Governments.

In my dispatches already sent you, as well as in the joint report of the commission, the steps taken which happily resulted in the restoration of tranquillity and order have been detailed somewhat at length, and I shall content myself in my final report with referring only in a general way to the work of disarmament and consequent restoration of peace, shall somewhat in detail speak of the causes that led to the unfortunate condition of affairs existing on our arrival, and give some of the reasons for the proposed changes in the final act of Berlin, which it is hoped may tend to prevent the recurrence of such condition of affairs in the future.

We arrived in Apia on the 13th of May, 1899, making the seventh of the fleet of war vessels of the three great powers then anchored in that quiet little harbor—three English, three American, and one German, the *Tauranga*, the *Porpoise*, the *Torch*, the *Philadelphia*, the *Brutus*, the *Falke*, and the *Badger*, but not the sail or smoke of a single vessel of commerce was to be seen there or about the coasts of these beautiful islands. On land patrolling the streets and at every crossing were soldiers, white and native, demanding the password of resident and stranger. A thousand natives in native uniform, but armed with British rifles and commanded by British officers, paraded past us in response to the salutes from the vessels of war, while as many more natives armed with every species of warlike implement, in command of native officers, came from their camps to witness our arrival. At a distance from the town of perhaps three miles and encircling it on all sides were the native troops of Mataafa, estimated at about 3,000 men armed with rifles, head knives, spears, and such weapons of war as the natives could command, resting upon their arms behind their lines of improvised fortifications under the terms of the armistice which had been proclaimed by the vessels of war pending the arrival of the commission. But a few days prior the English and American ships had shelled the town and the people had left the rear and exposed portions and were huddled together in the houses along the beach and out of the way of and protected by the guns of the ships which had been directed against the forts and lines of Mataafa surrounding the place. Excitement and alarm prevailed everywhere and this condition of nervous excitement had reached its height when the commission arrived.

The commission was met by no warm greeting from natives, whites, or the officers of the men-of-war. The guns thundered their salutes with cold formality, but there followed a frigidity of greeting which too plainly betrayed a want of confidence in the purpose or success of the mission on which we had come. The commanders of the war vessels believed that, but for the enforced armistice under orders from the great powers, the troops of Malietoa Tanu, under British officers and assisted by British and American marines, would have easily conquered the force of Mataafa, ended the contest, and established Tanu firmly upon his throne. The white people whose homes had been pillaged and who had sought refuge in Apia, under the guns of the men-of-war, despondingly awaited events which might again bring peace, and the inhabitants of the unhappy town, whose houses had been unluckily struck by the shells of a friendly fleet, and who sought shelter upon the shore, were about equally divided in their words of censure for the hostile forces of the natives and the vessels of their own fleet. They too awaited our arrival with no assured confidence of immediate relief or of permanent peace. The commission were looked upon as strangers without experience, unacquainted with native manners and customs, and lacking in that ability and education which could restore tranquillity and order, or provide for their maintenance in the future. Outside of the noisy salutes fired by the men-of-war, the reception of the commission on its arrival in Apia was without demonstration, icy and cold. They had not come, however, for pleasure nor as guests, but to learn and to act, and they set themselves immediately to their task. As I have already informed you, they opened rooms on shore, where for many days they consulted with officers of the navy, officials of the powers, private citizens, business men, missionaries, and everyone who could inform them of the situation they had come to meet. From every quarter they received discouragement as to any effort at disarming the native. They then summoned the chiefs themselves of the hostile parties, and finally obtained from them the promise to surrender their arms, which was on the 31st of May, 1899, carried out, and up to this time we have taken up from the natives and have in our possession more than 3,400 native guns, in addition to the British rifles, about 700 in number, returned to the British men-of-war. This was the beginning of peace. There is nothing the Samoan loves more than his gun; there is nothing he will not part with in its purchase; no sacrifice he will not make for its retention. It occupies the most prominent place in his home, and it is his constant companion upon his journeys abroad, and when he surrendered it to the commission, the white man felt and knew that peace was assured, and a feeling of confidence was at once inspired which has never abated, and which had aided the commission in bringing its work to a rapid and successful issue. The naval commanders yielded ready obedience to every request. The whites on shore for the time forgot their national quarrels and their differences of the past, and the natives of both factions vied with each other in anticipation of the commission's requests, and in the performance of any services desired.

In the prompt and effective disarmament of the two hostile forces lay whatever of success has attended the commission's work. It was an effective and nearly a total disarmament of both factions. Very few guns remain in the hands of the natives, and these are held under such

severe penalties that it will perhaps never be known how many were not surrendered. The commission brought two controlling influences to bear upon the native in effecting this result. Mataafa had returned as an exile from Jaluit under strict promises of obedience to the laws and government of Samoa, which, if the decision of the chief justice were upheld, had been broken. This was diplomatically placed before him in our oral interviews, and while no promise of immunity was made him, he was given to understand that the action of the three powers toward him would be made largely to depend upon his future conduct and attitude toward the commission and the government they might establish. Mataafa is undoubtedly the most sagacious and influential of all the native chiefs. He grasped the situation at once, proclaimed himself friendly to peace and desirous of doing everything deemed requisite by the commission to that end, and has kept his promises, it is believed, to the letter. Second, we found that all the arms were private property, each native being the owner of his own gun, and to assure success in what we deemed a vital point, the commission promised after the restoration of peace to return the guns or pay to the owners a fair compensation therefor. This was an argument *ad hominem*; it was a stronger argument even than the interested patriotism of Mataafa, but coupled with it became irresistible to the native mind, and almost to a man the Mataafa party surrendered its guns, delivering over 1,800 on the 31st of May and in all nearly 2,100 to the commission. It was also agreed that the disarmament should be general; that Tanu men as well as Mataafa should surrender their arms, and this was generally done. These guns, as I have already informed you, were taken by the *Badger* to San Francisco, to be there held until the three powers shall agree upon their disposition. The commission requested the English and German vessels remaining in the harbor of Apia to take them upon our departure, but these vessels had no room on board, and it was not deemed prudent to store these guns on shore, so the only thing left was to bring them with us. * * *

a valuation made by officers detailed by the captains of English, German, and American men-of-war, which I believe places an average value on the entire lot of about \$12 each, which is, I am inclined to think, a very large valuation; but it was made as a mere precaution, and not one by which the powers would be by any means bound.

The disarmament was accomplished without any promises made or inducements offered as to the future government of Samoa and before the commission had itself arrived at any conclusion or decision as to who was king. As soon as the disarmament had been concluded, we set to work to determine that important question. Fortunately, after much discussion, citation of such precedents as were at hand, and the application of legal principles which obtain in the jurisprudence of the courts, we unanimously reached the conclusion that under the provisions of the Berlin treaty the decision of the chief justice was valid and binding. It is true that the decision seems to base the judgment of the court upon the ineligibility of Mataafa under the protocols of the Berlin treaty, but the judgment itself, as found in the docket of the court, * * * bases the decision both on the ineligibility of Mataafa and upon the evidence presented to and considered by the court. Such a judgment under the express provisions of the treaty must be held to be valid and binding. When the record shows that evidence to sustain the issues was presented to the court and that such

issues were so tried and determined upon the evidence adduced, the judgment is necessarily conclusive though the reasoning of the court by which it reaches such conclusion be ever so fallacious. This proposition is so well sustained as elementary law that it needs only to be stated to be admitted, and if any doubt existed whether the determination of the election of a king is so far a judicial one as to come within the elementary principles, the doubt is removed by the very terms of the act itself which provides that "the signatory governments will accept and abide by such decision." (Sec. 6, art. 3.)

Having reached this conclusion it was unnecessary to attempt to jointly review the causes that led to the necessity for such decision. By the decision itself Tanu was king, and the correctness or incorrectness, the propriety or impropriety, of the conduct of those who had favored or opposed his election became immaterial in accomplishing the purposes of our mission, viz, the restoration of peace and proposed changes in the existing government of Samoa. Our joint action has therefore been confined to these two great objects, leaving each individual member of the commission at liberty in his separate report to make such reference to the conduct of individuals and citizens resident in Samoa as he might deem proper. I have not, however, under any instructions deemed it necessary for me to go further into the inquiry as to the cause that led to hostilities than to consider such facts as were developed in the legitimate determination of the questions submitted for our decision. It is undoubtedly true that the white people in Apia were in sympathy with one or the other of the rival candidates for king. It is also undoubtedly true that the German residents generally were in sympathy with Mataafa and the English and American residents with Tanu; but outside of some idle rumors there was no evidence adduced before the commission that any citizen of any nationality openly took any part in the proceedings that led to open hostilities or advised measures that led thereto. On the contrary, both the Germans—Marquardt and Hufnagel—who had been arrested and kept in confinement for several weeks prior to our arrival for having advised and aided Mataafa in his rebellion against the Government, were, upon a hearing by the commission, immediately discharged, there being no competent evidence against them. Prior to the decision of the chief justice it is difficult to see why the citizens of one nationality or another might not feel or exhibit a sympathy with the one or the other of the contending parties. Mataafa, though a returned exile and under strict promises to remain at Mulinuu and to maintain obedience to the government, had before the selection of candidates by the chief justice in a private letter to H. J. Moore, been declared eligible for the office of king, and while this unofficial letter could in no way affect the subsequent decision, yet it being made public did give to Mataafa a plausible color of right to become such candidate without apparent breach of the promises he had made. I do not therefore see how white men or the followers of Mataafa are open to censure on account of sympathy or support given to him prior to the decision declaring Tanu king. It may have been bad taste for white men to have espoused the cause of either candidate for native king, but no rule of law or ethics made it wrong.

It was undoubtedly a mistake that Mataafa was permitted by the powers to return to Samoa at the critical time when a king was to be selected. It should have been foreseen that sympathy for the old man,

whose exile had come to be a martyrdom in the minds of his relatives and friends, coupled with the magnetic powers and abilities of the man himself, could not fail to make him a powerful if not a successful candidate for the place he had once filled. But the powers permitted him to return; the chief justice declared him a proper person to be made king; his admirers espoused his election and declared him king; and undoubtedly by our theory of election where majorities control he was the choice of an overwhelming majority of the Samoan people, but in Samoa the select few and not the people determine the election of chiefs and kings. I have given the matter some thought, and have several times heard the theory explained by which the selection of king is finally made "according to the laws and customs of Samoa"—Faa Samoa—but I have only so far grasped the methods employed as to enable me to definitely conclude that according to such laws and customs it is possible to elect two kings at the same time, and that the one declared elected may or may not be the choice of the majority of the people themselves. Whether, then, Chief Justice Chambers fairly and honestly found upon the evidence before him that Tanu was elected king in accordance "with the laws and customs of Samoa," as his docket says he did, I do not think any lawyer of the great powers will ever have the patience or ability to determine, and he will upon a partial investigation of the methods pursued in determining such election feel inclined rather to excuse his honor for seeking to base his decision upon the ineligibility of the opposing candidate than to require him to set forth his reasons for a decision based upon the facts—"Faa Samoa." In my judgment, then, Mataafa and his supporters are to be blamed, not for what occurred before but after the rendition of the decision. The decision declaring Tanu to be king was the law of Samoa, and all who refused obedience to it violated not the decision alone but the treaty upon which it was based. I need not particularize.

The consuls and all officials of Samoa were bound to recognize Tanu as king. Until annulled by the great powers no consul or official of the great powers was at liberty to deny its binding force. Every act done or word of encouragement given by treaty officials toward approval of resistance to the decision of the court and their subsequent refusal to recognize Tanu as king must be regarded as a breach of treaty rights and a discourtesy toward the other allied powers. It is generally believed by those best informed in Samoan affairs that had the three powers been agreed as to the validity and binding force of the decision, and had the three consuls at once so proclaimed to the native people, the war might have been avoided and peace for the time at least maintained. Whether this be true or not I am quite convinced that the natives were informed that the powers were not agreed and that this fact encouraged them to active and prompt resistance. It is not improbable, however, that war would have come at last, for, according to "Faa Samoa," he only can be king who can maintain the title by force of arms. The contest between the forces of Mataafa and Tanu in the first instance was a brief one. In less than twenty-four hours the entire force of Tanu was made prisoners and disarmed or driven to its boats and on board the men-of-war. The victory was decisive and almost bloodless. This followed so suddenly and so immediately the decision that it seemed rather its resultant than a revolution

against it. Apia and the people yielded to the inevitable, and the consuls of the powers subscribed allegiance to the provisional government whose creation and existence rests rather in rumor than by record and facts. It was, however, a submission to superior force, and the Mataafa faction, so far as the natives were concerned, was in control. The white officials will never be able to agree as to what the provisional government was or what share, if any, the different nations took therein. Whatever trace of it existed at the time the British and American forces ceased fire upon the town, had disappeared when the commissioners themselves arrived. Mataafa and his troops were many miles away; Tanu, as king, was holding his court at Mulinuu, and where military law was not supreme, the old officials of the Government were exercising the functions of their offices. The provisional government was at an end. If it had any existence in fact it lives only in the memory of the past, so that we were by the shells of British and American guns relieved from some difficult questions of international law that might otherwise have arisen had we found it de facto the government of Samoa.

I do not deem it part of my duty to go into the question of the origin and termination of this "provisional government" at length. It was one of those evanescent, kaleidoscopic transitions of the kind of government of which the history of Samoa has furnished many unique examples in the past. It must be admitted that under the view the commission has taken the provisional government was the result of a victorious revolt against the lawful government, its leaders were revolutionists, its officers in the eye of the law were rebels, and the consuls who assumed to act for their Governments in yielding obedience thereto, were acting without the pale of their authority, and until ratified by their Governments, their acts were null and void. I shall not argue the question whether a majority or all the consuls acting together could authorize the naval authorities to shell the camps of Mataafa and break up the provisional government itself. I have always maintained the opinion that whenever the consuls under the Berlin treaty were required to act that a unanimity was not required except in the cases therein enumerated, "The mention of the one to the exclusion of the other," and when the framers of the Berlin treaty chose to enumerate certain cases in which unanimity of action was required, they declared by implication that in all other cases a majority of the board was authorized to act. I do not think, however, that the admiral and other naval commanders in the harbor of Apia were at all subject to the unanimous or majority control of the consuls, except in so far as they may have been specially instructed by their governments. The naval commanders' general instructions would have been sufficient to authorize them to fire upon armed rebels in revolt against their lawful government. It would seem to me that Admiral Kautz and the English commanders, acting under their general instructions, were authorized to put down an armed rebellion against the lawful government of the three powers and to sustain by force of arms the decision of its courts, and if their private instructions put them under control of the consuls as to how and when display of force was to be employed, I am still of the opinion that such instructions were not violated by their obeying the orders of a majority of them. I expressly disclaim passing upon these questions other than in a general way, and I must claim that what is here

said shall not be regarded as an opinion or report upon these questions made after an investigation of the facts. I desire them to be considered merely as a report upon questions arising incidental to the matters left to our jurisdiction and control.

After the commission had reached the conclusion that Tanu was king it set about to place the wheels of a provisional government in motion. Complaints were frequent and urgent from people of all classes requesting to be relieved from military rule, that sentries be removed, and that civil government be again restored. The city government had lapsed. The councilmen in one of the wards had failed to qualify and in another were illegally elected, and as no quorum of the former government could be obtained the commission itself had to appoint registers and call an election to fill such vacancies. They then installed Dr. Solf as president of the council, withdrew the sentries, and placed the town under a city government and civil law. In the meantime we had canvassed the question of a provisional and permanent government for the islands. The history of Samoa showed that the title of king was of very recent origin and extended no farther back than to the grandfather of Tanumafili, and that his father was really the first to be crowned and anointed king. The title of king is said to have originated with the missionaries, who conceived the idea to unite the islands under one ruler and thereby to make a stronger and better government. On the contrary, it became weaker, there being no hereditary king. The most powerful chiefs of the most aristocratic families and tribes claimed the right of succession and exercised the right of rebellion during every reign. No king was able to maintain his authority over all the districts at the same time. Some of the more powerful chiefs were continually in rebellion. The father of Tanu was twice deposed and three kings assumed the title intermediate his reign as king—Malietoa Talavou, Tamasese, and Mataafa—and the process of the king instead of commanding respect was mocked at and jeered, and could not be enforced in many of the larger districts of the so-called kingdom of Samoa during his entire reign. This was not on some occasion of revolt, but usual and continuous. I am informed by Chief Justice Chambers that during his entire stay in Samoa the writs of his court, running in the name of Malietoa Laupepa as king, could not be enforced in several large districts of Samoa, and this in times of apparent peace. The title of king was an empty honor; the real power was in the district chief, and the native government existed there. Upon consulting with those best acquainted with Samoan affairs we did not find a man not influenced by selfish interests who was not pronounced in favor of abolishing the office of king. It was not only an empty honor but a bauble to be contended for by powerful chiefs, a sort of Samoan prize not to be retained by the victor but to be submitted to new contests and won afresh upon the field of honor. Instead of an element of strength it was an element of weakness and a cause of war and insurrection, and upon consulting with the older and wiser chiefs we were surprised to find that they, too, believed it better that the office should be abolished, that the districts should govern themselves, and the white man should make the laws for Samoa. We became unanimous that the office of king should be abolished, so far as our recommendation could effect such result, and so informed Tanu, the king. He advised with his friends, and subsequently informed the commission that he was yet a boy at school and desired

to complete the course of study he had begun, and in oral conversation he further explained that, should the great powers agree with the commission to abolish the office of king in the formation of a permanent government, his temporary holding of the position became a worthless title, and did the powers permit the title in the future to be retained it would be one which could not peaceably be held. It came to him not by descent but by a decision, which many of the great chiefs declared in violation of Samoan law and customs. He could not hope to hold it except by war, and his life would be spent like that of his father in anxiety upon the throne and in the loneliness of exile, and he preferred the hereditary title of district chief to the unmeaning title of Samoan king. * * *

Upon the acceptance of the resignation of Tanu the executive power of the provisional government was placed in the hands of the three consuls with Dr. Solf as adviser, and a proclamation issued to that effect. The provisional government being now in force, the time of the commission was directed to the question of a permanent government and the changes to be recommended in the final act of Berlin. The act itself was the unique work of skillful men, and had it not fallen into the hands of strict constructionists would undoubtedly have served well the purpose of its creation. The same forces which robbed it of the elasticity of construction and expansion of provision still existed in Samoa and might wreck any form of tripartite government that could be conceived. If such a form of government be possible, and I use the word with full understanding of the doubt it implies, it can be made enduring and permanent only by being made applicable to all classes of people through the same agencies of administration. The foreign population to be governed should as far as possible be made homogeneous, and one set of officials should administer the same law in all Samoa. The question of nationality must be lost sight of in the administration of government and the government should be made autonomous as its preamble declares by an administration which treats citizens of every nationality alike. To aid in carrying out this principle of government we have recommended the abolition of that judicial extraterritoriality heretofore existing in the consuls. The exercise of this right has become a weapon of hostility rather than a shield of defense. The consulate had become an asylum from crime rather than a temple of justice and the criminal had come to regard his consul as one who would protect and shield him from the courts rather than as a judge who would punish him for his crime. Not only had the consulate thus become a refuge for criminals, but the courts were continually harassed with questions of jurisdiction which were not always limited to the courts of Samoa, for not infrequently they found their way to the powers themselves and became unpleasant subjects of international complication. Scarcely a case arose in the courts that this vexed question did not present itself in some form and the assertion of consular jurisdiction took on at times such an air of superior power as to create a counter resistance of the court in order to maintain a dignity of demeanor in contrast with the humiliation sought to be imposed. These were some of the evils of the consular extraterritorial jurisdiction. On the other hand, the good effects expected from its exercise did not result. Such judicial powers are never exercised by consuls except in those countries like Turkey, China, etc., where by reason of all religious prejudice or incapacity of native courts for-

eigners can not, with safety to liberty and property, submit to their jurisdiction. Neither of the reasons obtain in Samoa. Nearly all the inhabitants are Christians, as will be seen by reports of missionaries * * * which show that of the 35,000 estimated population of these islands the Protestants claim about 27,000 and the Roman Catholics 7,000. The courts, too, having foreign jurisdiction are not native, but white. The chief justice is selected by the powers and has jurisdiction, not only in cases where foreigners are parties, but in all cases where foreigner and native are parties.

It would seem that no good reason could exist why a court that has jurisdiction to try cases between Englishmen and Americans might not be qualified to try cases between Americans themselves, nor why it should not be authorized to try and punish an American as well as a Norwegian or a person of another nationality in a country declared to be autonomous and independent, and where all men are supposed to be free and equal. It developed also upon inquiry that this consular jurisdiction was unpopular with the people themselves. The consuls even condemned it and we found but one man, an attorney who had shown some skill in entangling the courts upon this vexed question, who attempted to defend such jurisdiction. No reason therefore seeming to exist for further insistence upon the rule, and its exercise having been found to be prolific of the evils sought to be controlled, we have recommended the abolition of this extraterritorial jurisdiction heretofore exercised by the consuls and have conferred such jurisdiction upon the chief justice, and have at the same time, to relieve his court and to expedite the hearing of petty cases, enlarged the jurisdiction of the municipal magistrate so as to allow him to try civil cases involving an amount not exceeding \$50 and misdemeanors where the penalty does not exceed a fine of \$200 or one hundred and eighty days imprisonment, with right of limited appeal to the supreme court. We have also made a few specifications of the powers of the courts to issue certain writs, such as mandamus, injunction, etc., which would probably exist without enumeration, and have retained the former provision of the Berlin treaty making the decisions of the chief justice final, adding, however, a clause which reserves to the powers the right to annul all decisions involving executive and administrative rights or principles of international law. This clause relieves the powers from the annoyance of appeals by litigants which might be frequent and annoying, and at the same time saves to them the right of annulment in all cases where the decision is not strictly judicial. We have also extended the jurisdiction of the supreme court to felonies committed by natives against each other, upon the advice of missionaries and those better versed in Samoan laws and usages. It is believed that such jurisdiction, though exercised only in extreme cases, will have a beneficial effect in restraining the commission of crime and advancing the condition of morality among the natives themselves. Much complaint existed also among American and English settlers especially, that the Berlin act contained no provision for a trial by jury, which citizens of those nations regard as one of their dearest rights. We found, however, that it would be quite impracticable to provide for a jury of twelve men, where perhaps not one hundred men qualified for jury duty could be found on the entire islands, and we therefore have compromised the matter by providing for a jury of three to be allowed in the discretion of the court in civil cases and as an absolute right in

criminal cases. This in lieu of the provision for assessors, which we were informed was a dead letter, it never having been attempted to be used but once since the organization of the court and which then proved a failure. With these exceptions the powers of the supreme court have not been changed. This court has proved to be the strongest and best part of the mechanism of the Berlin treaty and we have felt it proper therefore to strengthen rather than to weaken its powers.

In place of the king and his advisers we have provided an executive officer whom we have designated as an administrator. To the administrator, who it is presumed will be an upright and experienced man of affairs, we have given real powers of administration. He will be the center and focus of the Samoan government, a real executive; and in reply to any objection which may be urged that we have established a protectorate instead of a Samoan government, we have, at the request of the natives themselves, taken away the prop from the king—the white adviser, who was expected and intended to be the actual king—and given them a real executive in his place—replaced the shadow with the object itself.

It can with no more propriety be urged that an assault has been made upon the independence of Samoa by furnishing it an able executive than where the native court was replaced by the supreme court, and what has proved such a necessity and bulwark of strength in the judicial department, it is believed will be developed in the executive by the substitution of the administrator for the king and his white adviser, and the one strikes no more at the independence of Samoa or assumes a greater protectorate power than the other. The question becomes one of good government and not a mere dream of the sentimentalist, the humanitarian, or the charlatan. If a government is to be maintained in these islands it must be a strong, simple, and economical one. It must be so strong as to be respected and feared, so simple as to be understood by the native and white, and so economical as to impose neither too heavy a burden upon the people nor the powers that must be responsible for its failure or success. Along these lines, without sentiment or imagery of thought, we have centered in the administrator and his council such power and simplicity of action as will give in our judgment to it the strength and elasticity which, under the strict construction of the Berlin treaty, robbed the government of the powers intended to be conferred. Small powers of legislation are given to the council, well guarded in their enumeration and in the reservation which gives to the powers entire right to modify or annul. In this way the treaty, instead of being a codification of law, assumes more the character of a written constitution which both grants and limits the powers of the executive, legislative, and judicial departments of the government, and provides thereby an elasticity of action with sufficient checks and balances to guard the safety of its action without interfering with its strength or economy. The white man has provided a white man's government over the whites, and so far over the natives as to insure peace and to protect the business relations existing between native and white upon these islands. The natives in their intercourse with each other are governed by the laws and customs of Samoa as administered by the district chiefs. We have preserved all there has ever been of native government and given to the central government simplicity and strength which it is believed will insure stability and permanence of character. The administrator

and chief justice are given such salaries as is believed will command respectability, and the office of councilor is left to be filled by each nation at such salary as may be deemed adequate and just. Provision is also made for their acting in the capacity of collectors of customs, treasurer, attorney-general, and such other executive offices as may be found expedient and proper, it being clearly shown that their employment in the role of councilors will not be so onerous but that a large share of the executive work of the islands can be performed by them; and if desired, no objection is seen to their acting in the additional capacities of consuls or consular agents of the different powers, and in this way the salaries now paid for king, collector of customs, etc., would be saved and a fair salary could be afforded by the powers to command for these places such ability as their importance demands.

As to the native government, we have given it especial study. We visited every island except Manua, the extreme eastern islands of the group, which have but few inhabitants and are almost inaccessible except during the smoothest sea. We held meetings in every district, at which nearly every chief and native was present. We discussed with them their theories of government. We drank kava and ate with them. We listened to their speeches. We talked with their chiefs and explained our own theories of the central and native governments, and we found them not only quite unanimous, but at the last enthusiastic in favor of the central government as contained in the amendments proposed. The form of district government is quite their own, and was agreed upon after our tour of the islands, and is a consensus of the views of the chiefs and those most familiar with native laws and customs. Our aim has been to leave to the native the largest freedom and liberty within the districts and to teach him self-government through the native assembly, which meets each year at Apia, whose teachings will disseminate and make its impressions felt in the district governments until in time the native will be able to take his part in the government of the islands with an intelligence equal if not superior to that of the white man now there. But at present he is unfitted for extended self-government, and no one appreciates this fact better than himself. He is anxious to learn. He wants a white man's government. Thanks to the missionaries the great bulk of the natives and nearly every chief can read and write and are adopting the habits of civilization with great alacrity. They are entirely satisfied with the form of government we have proposed, and while we have not permitted our draft to be published or read until it shall have been presented to our Governments, we have taken occasion at these private meetings with chiefs, at which no white man or reporter was permitted to be present, to explain its principles at length, and on the 14th of July, just before our departure, we called the chiefs together at Apia from all the islands, about four hundred and fifty being present—every high chief, in fact, except Mataafa and Tanu, the former being kept away by sickness and the latter because it was not deemed proper for him to be present during Mataafa's absence. To these chiefs we fully explained the proposed government, and were surprised to find that the Mataafa chiefs had anticipated us by themselves proposing in brief a form of government much our own, which they had prepared and which was read by one of the Mataafa chiefs. * * * At the close of the meeting so harmonious were the views of all the chiefs, both of the Mataafa and Tanu factions, that it was agreed that 13 chiefs from either side

should be selected to sign the proposed form of government, to show to the powers that it met with their entire approval. Accordingly the 26 chiefs, 13 of the Mataafa and 13 of the Tanu party, came on board the *Badger* on the morning of July 15, 1899, and signed the proposed plan of government, and their original signatures will be found appended to the draft of government forming a part of our joint report which is herewith submitted.

In the form of government presented we have endeavored as far as possible to preserve the symmetry and theory of the Berlin treaty. The provisions as to reservation of lands to the native people, the principle of taxation, the restriction as to introduction of firearms and intoxicating liquors, have all been preserved and in some respects emphasized. The courts, as I have already stated, are retained and their jurisdiction enlarged, and the executive power has been changed only by abolishing the puppet king and creating out of his white adviser a real executive, as the adviser was expected to be. In short, the only change in principle has been to take away the consular judicial powers and confer them upon the chief justice, and to give elasticity to the act by conferring such legislative powers as would seem to be impossible to be exercised by the powers themselves, or which results could not be embraced in an act so brief as the treaty itself. We have endeavored in the short time at our command to ascertain the weaknesses of the treaty in its administration, to learn the requirements of the native people, and to suggest such changes as it is hoped will best retrieve the errors of the past and maintain a strong and stable government in future.

I am by no means sanguine that the form proposed will produce the effect desired, for while I have no doubt that any one of the great powers could easily govern these islands in the manner proposed, I fear their ability to do so when acting together, and I can not forbear to impress upon my Government not only the propriety but the necessity of dissolving this partnership of nations which has no precedent for its creation nor reason for its continuance. It will produce national jealousies and endanger the friendly relations that have so long existed between the powers. Considerations of national welfare should terminate this unusual alliance at the earliest moment that it can be done with proper regard for the rights and interests of the powers concerned. Should the plan of government recommended by the commission meet with approval I can not urge too strongly that it be put into operation at the earliest moment. The provisional government is now in the hands of the consuls. We have delegated to them all the executive power vested in the commission so far as we were able to do so under our power to establish a provisional government. * * * Mr. Hamilton Hunter represents England, Luther W. Osborn the United States, and Mr. Grunow, formerly vice-consul, the Empire of Germany. Mr. Hunter is a man of considerable experience in the Pacific islands and has some knowledge of native character. Mr. Osborn has been "through the war," but seems unobjectionable to all parties. He is a good lawyer and his knowledge derived from past experience will be of service in the future. Mr. Grunow is a young man, but of some experience and ability. He, too, was in Apia during the recent troubles and brings with him into his office as consul not only recollections but some prejudices also as to the post. It is generally better that new men fill these places, for while they may lack in experience they are

free from bias and prejudice, fostered and strengthened by recent events, which often color their action and lessen their influence. Chief Justice Chambers expressed his desire to return home immediately on my arrival. I did not object, but deemed his action a wise one. The judge is a good lawyer and an honest man, but it would have taken years for him to have overcome the prejudice which his decision raised against him among the native people. Mr. Osborn has been temporarily appointed to fill his place, but his duties as consul, to which have been added the executive duties of the government, require that the place of chief justice should be immediately filled. Dr. Solf, president of the municipality, acts as adviser to the consuls under the provisional government, as he did to the king under the former government.

The commissioners are not satisfied with the form of government we were obliged to leave provisionally in force. We would have preferred to have assimilated it more to the form of the permanent government proposed, but with the material at hand the members of the commission were wholly unable to agree upon a person for administrator, and we leave the matter to the powers, trusting they will recognize the fact that the present government must be treated as a provisional one in the literal sense and that immediate action should be taken to replace it with one of greater strength and influence. The Samoans are not a difficult people to govern; they are a volatile, emotional people; they are suddenly angered, but harbor no resentment or revenge; their reconciliation is as rapid and demonstrative as their anger is sudden and violent. They require a prompt and energetic government rather than a strong and powerful one. A few small vessels with rapid-fire guns can reach every village of the islands and a few detachments of soldiers for police duty on shore would maintain peace everywhere. The islands are in shape not unlike that of a hat; the interior, representing the crown, is mountainous and uninhabited; the rim, or shore, is covered with cocoanut palms, bread fruit, pineapples, bananas, and all the tropical fruits which furnish the native food. Around this rim or shore line are situated all the villages and homes of the native people, so that the islands are easy to patrol on shore or by sea, and a government in which the native has confidence and is taught to respect can be administered with small display of force and little expense. Battle ships and large cruisers are worthless in these waters. The harbors are small and difficult of access, but vessels not exceeding 1,500 tonnage—better 1,000—can enter and anchor in most of the harbors of the islands. Our vessel, the *Badger*, we found too large for the island trip and we accepted the kind offer of the *Tutane-kai*, a New Zealand vessel of about 1,000 tons, which took us around Savaii, Apolima, Manono, and a portion of the island of Upolu, anchoring in places where larger vessels would not dare approach.

These islands have been described so many times in the very able reports of consuls and former commissioners that I shall not attempt to go over the ground they have so well and so fully covered. They are very beautiful in appearance, and the climate in winter—our summer at the north—is indeed charming. The level and mountain land is covered with trees and timber of every variety. Unlike the Hawaiian Islands the mountains are green to their very tops. But little is known of the interior; beautiful waterfalls are seen from the harbor of Apia, said to be more than 400 feet in height, which are still inaccessible for want of roads. Virgin forests of splendid timber are yet untouched

by native hand. The finest tropical fruits in the world, including oranges, limes, pineapples, bananas, mangoes, cocoanuts, and bread-fruit grow wild and in abundance. Outside of the great German and a few other plantations, everything is in a state of nature. The soil is fertile but rocky, and fitted only for growth of shrubs and trees. The soil is decomposed lava and scoria. Much of the lava rock is still undecomposed, so that cultivation in the ordinary manner is impracticable and quite impossible. Such implements as plows, drags, drills, and cultivators are useless here and, indeed, unknown. Trees of all kinds throw down their roots into the loose, porous lava rock, and a kind of low vine in the forest of cocoanut and other trees creeps over the low lying rock, so that until disturbed the ground appears level and not unlike the dark soil of our Western land, but in most parts of the islands when disturbed it is found to be a broken mass of lava rock. Where it has been attempted to be removed in constructing roads through one of the German plantations, at the western end of Upolu, and where we spent a very pleasant Sunday, the rock removed from the roadway was sufficient in amount to construct a high wall on either side. The cultivation of cotton was at one time attempted by planting in hills from which the rock was removed, but the labor was found too great and it has been practically abandoned. Shrubs of all kinds thrive in the lava rock. Coffee, it is believed, will yet be cultivated with success. Cocoa thrives, and the plantations are being largely increased. Copra, the product of the cocoanut, is still the principal article of export. All the tropical fruits which grow here in their wild state improve much by cultivation. The natives are not inclined to labor, and nearly all the laborers on the great plantations are brought from New Guinea and the Solomon Islands.

It is believed that as the native becomes better educated and more and more adopts the habits of civilization he will devote his attention more to the raising of copra, cocoa, and other commercial products, and in this way his time will be better occupied than in the discussion of native politics and the propagation of island or tribal war. The greatest impediment to civilized progress has hitherto been the communal character of property. The land of the natives and much of their personal property is held in common, and their government is largely patriarchal. Their chiefs are heads of one great family. If one member of the family is more successful than another, the rest claim as a right, which he is not at liberty to deny, that he should share with them. There is, therefore, no incentive to individual activity. Punishments by fine are paid by the tribe, so that the only real punishment which a native fears is imprisonment with hard labor. The latter is not only a disgrace, but a real punishment. The result is that most misdemeanors in Samoa are punished by hard labor. The missionaries and other humanitarians here are using every effort to induce the natives to abandon this communal plan and to become, like the whites, individuals and men. Some laws looking to the allotment of lands, retaining still the prohibition upon alienation, would go far in aid of well-directed efforts to overcome this obstruction to native progress.

The importance of the Samoan Islands, however, lies not so much in their commercial advantage as in their geographical location. They are in the great future pathway of commerce, and their importance in this respect can not be overestimated. Savaii, the largest of the group,

has no good harbors. Upolu has several small harbors and open roadsteads, for most of the harbors are mere openings in the coral reef. This reef extends around each island at a width varying from a few feet or rods to several miles. Wherever the fresh water comes down to the sea, the coral insect has abandoned his work, and here are found the harbors of the islands. If the stream is small, the opening in the reef and harbor is also small. Generally the projecting headlands near the mouth of the stream, if any, are low, so that these so-called harbors are mere open roadsteads. Some of these are too deep for an anchorage, others too small, so that of all these reef openings but few can be called harbors. We spent several days at Pago-Pago. This, unlike the other reef openings, is a landlocked harbor, a beautiful inland harbor. It resembles one of those picturesque Swiss lakes. The mountains on every side are precipitous and in places perpendicular, and the level land around the water's edge is very narrow and small in extent. Baron Sternburg, my colleague, kindly made me a set of drawings giving a panorama of the entire harbor, which are wonderfully accurate, and I had them photographed (taking the precaution to bring away the negatives), and I inclose you a set corresponding with a set^a sent also to the Navy Department. You will see marked thereon the place occupied by our projected wharf and coal sheds. The contractors were there and were at work at the time of our visit. I can not impress upon my Government too strongly the necessity of its undivided possession of this harbor. It is the only one worthy of the name in the islands. Tangeloa, on the island of Upolu, the only other harbor, has an open mouth and is too deep for anchorage. In Pago-Pago, after entering the inner harbor, it is as calm as an inland lake. Not a ripple was visible upon the surface of the bay, although a storm was raging at sea and we could hear the waves roaring and the surf breaking in the outer harbor about 2 miles away. The harbor and the entire island should be under our individual control. A coaling station within the harbor or the harbor alone would be of little value. The modern coaling station must be fortified, and to do this the adjoining bay of Leone must be had, with its connecting peninsula. In short, the whole island must be had; and it would, in my judgment, be a wise policy to give our allies and the world to be informed that our interests in Samoa center most closely about Pago-Pago and the island of Tutuila, and that we should not look with favor upon any effort on the part of any nation to interfere with our rights or make them less available for future requirements of the nation by curtailment of our interests in the harbor or in the island itself. Negotiations between England and Germany have been several times had to exchange the undivided interests of the one for the sole possession of other island properties. So far as I am informed, the proposition has been only to surrender to Great Britain the German interests. This Germany will probably decline to do so long as the German firm retains its interests in the large German plantations; but recently, it is said, large offers have been made by British capitalists for these properties. Should this result be brought about, it would undoubtedly follow that Germany would exchange her Samoan interests for some British island interests, and the United States, which has so long been the buffer power between these two great nations, would be in a position to ask for a severance of the joint rule we have

^a Not printed.

so long maintained contrary to all our former national policies and traditions.

* * * * *

Not having the opportunity of seeing Mataafa and Tanu in person at the time of our departure, we deemed it a wise precaution to address to each of them a letter from the commission direct, advising them of the provisional government which we were leaving in charge of the affairs of the islands, acknowledging the valuable services they each had rendered the commission in its efforts to promote peace and establish a stable and permanent government, and reminding them of their promises of obedience and allegiance to the government so established. These letters * * * were left with the consuls with instructions that they should be translated into Samoan and transmitted to Mataafa and Tanu as directed. It will be observed that no promises have at any time been held out to Mataafa of immunity or otherwise further than that he may have the right to expect, should his future action continue to be one of loyalty to the government, and should he continue to use his great influence with the native Samoans in behalf of peace and honest allegiance to the government, that he may be permitted to spend the remainder of his days on his native island and with his family and friends. Mataafa is a strong factor in the politics of Samoa, an all-powerful element in determining the question of peace or war. Should he keep his promises in the future, the government will be benefited by his presence; otherwise he should be removed at once. I have every reason to believe that Mataafa will in future honestly and faithfully keep every promise he has made. He is an old man, in poor health, and over his own signature he has declared "there should be no more king." His ambition is at an end, and the desire to die at home and not in exile he knows can be gratified only by the strict observance of every promise of obedience and loyalty that he has made. Tanu is but a child and does not promise any development of strength for good or evil in the immediate future, and unless he be made the tool of some designing white man, no fears are to be entertained of his hostile action against the provisional or permanent government of the islands.

Trusting that the peace we have been able to establish may be permanent and the changes in the form of government we have proposed may meet in some degree with your approval,

I remain, etc.,

BARTLETT TRIPP.

[Telegram.]

Mr. Hay to Mr. Choate.

DEPARTMENT OF STATE,
Washington, September 7, 1899.

German Government strongly urges partition of Samoan Islands, the United States to retain Tutuila and adjacent islets, and England and Germany to divide the rest. The President is disposed to regard this proposition favorably if details can be satisfactorily arranged with due regard to the national interest and to the welfare of the inhabitants. Ascertain discreetly the views of Her Majesty's secretary of state for foreign affairs.

HAY.

[Confidential.]

Mr. Choate to Mr. Hay.

No. 167.]

AMERICAN EMBASSY,
London, September 22, 1899.

SIR: I have the honor to report that, in an interview to-day with Her Majesty's secretary of state for foreign affairs, I endeavored to ascertain his views on the proposition of the German Government for the partition of the Samoan Islands, the United States to retain Tutuila and the adjacent islands and England and Germany to divide the rest, as directed in your cipher telegram received September 8, 1899.

The German ambassador, by the way, had called upon me on the 6th instant, and was evidently possessed of the exact terms of that telegram, and expressed himself as very anxious that the United States Government should press the British Government to consent.

Lord Salisbury had no hesitation in saying that the present mode of governing the Samoan Islands could not succeed, and that he was inclined to favor the partition as the only means of securing good government there, if the details could be satisfactorily arranged, and that he was perfectly willing to give me the present state of the negotiations with Germany, which is that, assuming that the United States would be entirely satisfied with Tutuila, they had got so far as to agree that the terms on which they should divide the rest should be arranged by some sort of arbitration; that the King of Sweden should be the arbitrator; but that upon what rules and principles the arbitration should proceed they had not yet been able to agree.

He said further that the fundamental difficulty was that there were three parties to divide and really only two islands to be divided; that after setting apart Tutuila for us the only other island of any value is that in which Apia is situated. Of course they consider that the United States is to be in no way a party to or concerned in the proposed arbitration.

The main result so far is that both Germany and Great Britain seemed to be convinced that it is impracticable to continue to govern the islands by the present tripartite method—as he said the late commission reported would probably be the case—and the welfare of the islands required a change.

I have, etc.,

JOSEPH H. CHOATE.

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 3, 1899.

If there is any doubt of the American attitude as to partition of Samoa, you may say to Lord Salisbury that we are favorable to it, provided that satisfactory terms can be made, and that we shall be content with that portion of the islands east of the one hundred and seventy-first meridian.

HAY.

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 4, 1899.

This Government has no objection to England and Germany coming to a preliminary agreement about Samoan Islands west of the one hundred and seventy-first meridian, subject, of course, to concurrence of the United States.

HAY.

Lord Pouncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, November 27, 1899.

SIR: I have the honor, by direction of the Marquis of Salisbury, to transmit to you herewith a copy, in both English and German texts, of the convention and declaration between Great Britain and Germany, signed on the 14th instant, for the settlement of questions pending between them in regard to Samoa and certain other matters.

I have, etc.,

PAUNCEFOTE.

[Inclosure.]

CONVENTION.

The commissioners of the three powers concerned having in their report of the 18th July last expressed the opinion, based on a thorough examination of the situation, that it would be impossible effectually to remedy the troubles and difficulties under which the islands of Samoa are at present suffering as long as they are placed under the joint administration of the three Governments, it appears desirable to seek for a solution which shall put an end to these difficulties, while taking due account of the legitimate interests of the three Governments.

Starting from this point of view, the undersigned, furnished with full powers to that effect by their respective Sovereigns, have agreed on the following points:

ARTICLE I.

Great Britain renounces in favor of Germany all her rights over the islands of Upolu and of Savaii, including the right of establishing a naval and coaling station there, and her right of extraterritoriality in these islands.

Great Britain similarly renounces in favor of the United States of America all her rights over the island of Tutuila and the other islands of the Samoan group east of 171° longitude west of Greenwich.

Great Britain recognizes as falling to Germany the territories in the eastern part of the neutral zone established by the arrangement of 1888 in West Africa. The limits of the portion of the neutral zone falling to Germany are defined in Article V of the present convention.

ARTICLE II.

Germany renounces in favor of Great Britain all her rights over the Tonga Islands, including Vivau, and over Savage Island, including the right of establishing a naval station and coaling station, and the right of extraterritoriality in the said islands.

Germany similarly renounces in favor of the United States of America all her rights over the island of Tutuila and over the other islands of the Samoan group east of longitude 171° west of Greenwich.

She recognizes as falling to Great Britain those of the Solomon Islands at present belonging to Germany which are situated to the east and southeast of the island of

Bougainville, which latter shall continue to belong to Germany, together with the island of Buka, which forms part of it.

The western portion of the neutral zone in West Africa, as defined in Article V of the present convention, shall also fall to the share of Great Britain.

ARTICLE III.

The consuls of the two powers of Apia and in the Tonga Islands shall be provisionally recalled.

The two Governments will come to an agreement with regard to the arrangements to be made during the interval in the interest of their navigation and of their commerce in Samoa and Tonga.

ARTICLE IV.

The arrangement at present existing between Germany and Great Britain and concerning the right of Germany to freely engage laborers in the Solomon Islands belonging to Great Britain shall be equally extended to those of the Solomon Islands mentioned in Article II, which fall to the share of Great Britain.

ARTICLE V.

In the neutral zone the frontier between the German and English territories shall be formed by the River Daka as far as the point of its intersection with the ninth degree of north latitude, thence the frontier shall continue to the north, leaving Morozugu to Great Britain, and shall be fixed on the spot by a mixed commission of the two powers, in such manner that Gambaga and all the territories of Mamprusi shall fall to Great Britain, and that Yendi and all the territories of Chakosi shall fall to Germany.

ARTICLE VI.

Germany is prepared to take into consideration, as much and as far as possible, the wishes which the Government of Great Britain may express with regard to the development of the reciprocal tariffs in the territories of Togo and of the gold coast.

ARTICLE VII.

Germany renounces her rights of extra-territoriality in Zanzibar, but it is at the same time understood that this renunciation shall not effectively come into force till such time as the rights of extra-territoriality enjoyed there by other nations shall be abolished.

ARTICLE VIII.

The present convention shall be ratified as soon as possible, and shall come into force immediately after the exchange of ratifications.

In witness whereof the undersigned have signed it, and have fixed thereto their seals.

Done in duplicate at London, the 14th day of November, 1899.

DECLARATION.

It is clearly understood that by Article II of the convention signed to-day Germany consents that the whole group of the Howe Islands, which forms part of the Solomon Islands, shall fall to Great Britain.

It is also understood that the stipulations of the declaration between the two Governments signed at Berlin on the 10th April, 1886, respecting freedom of commerce in the western Pacific, apply to the islands mentioned in the aforesaid convention.

It is similarly understood that the arrangement at present in force as to the engagement of laborers by Germans in the Solomon Islands permits Germans to engage those laborers on the same conditions as those which are or which shall be imposed on British subjects nonresident in those islands.

Done in duplicate at London, the 14th November, 1899.

Convention between the United States, Germany, and Great Britain to adjust amicably the questions between the three Governments in respect to the Samoan group of islands.

[Signed December 2, 1899. Ratification advised by the Senate January 16, 1900. Ratified by the President February 13, 1900. Ratifications exchanged February 16, 1900. Proclaimed February 16, 1900.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas, the Convention between the United States of America, Germany and Great Britain, to adjust amicably the questions which have arisen between the three governments in respect to the Samoan group of Islands and to avoid all future misunderstandings in respect to their joint or several rights and claims of possession or jurisdiction therein, was concluded and signed by their respective Plenipotentiaries, at the City of Washington, on the second day of December, 1899, the original of which Convention, being in the English and German languages, is word for word as follows:

The President of the United States of America, His Imperial Majesty the German Emperor, King of Prussia, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, desiring to adjust amicably the questions which have arisen between them in respect to the Samoan group of Islands, as well as to avoid all future misunderstanding in respect to their joint or several rights and claims of possession or jurisdiction therein, have agreed to establish and regulate the same by a special convention; and whereas the Governments of Germany and Great Britain have, with the concurrence of that of the United States, made an agreement regarding their respective rights and interests in the aforesaid group, the three Powers before named in furtherance of the ends above mentioned have appointed respectively their Plenipotentiaries as follows:

The President of the United States of America, The Honorable John Hay, Secretary of State of the United States;

His Majesty the German Emperor, King of Prussia, His Ambassador Extraordinary and Plenipotentiary, Herr von Holleben; and

Her Majesty the Queen of Great Britain and Ireland, Empress of India, the Right Honorable Lord Pauncefoot of Preston, G. C. B., G. C. M. G., Her Britannic Majesty's Ambassador Extraordinary and Plenipotentiary:

who, after having communicated each to the other their respective full powers which were found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I.

The General Act concluded and signed by the aforesaid Powers at Berlin on the 14th day of June, A. D. 1889, and all previous treaties, conventions and agreements relating to Samoa, are annulled.

ARTICLE II.

Germany renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Great Britain in like manner renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Reciprocally, the United States of America renounce in favor of Germany all their rights and claims over and in respect to the Islands of Upolu and Savaii and all other Islands of the Samoan group west of Longitude 171° west of Greenwich.

ARTICLE III.

It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them.

ARTICLE IV.

The present Convention shall be ratified as soon as possible, and shall come into force immediately after the exchange of ratifications.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereto affixed our seals.

Done in triplicate, at Washington, the second day of December, in the year of our Lord one thousand eight hundred and ninety-nine.

JOHN HAY	[SEAL.]
HOLLEBEN	[SEAL.]
PAUNCEFOTE.	[SEAL.]

Der Präsident der Vereinigten Staaten von Amerika, Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reiches, und Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, Kaiserin von Indien, von dem Wunsche geleitet, auf freundschaftlichem Wege die Fragen, welche in Betreff der Samoa-Inseln sich ergeben haben, zu erledigen, und allen künftigen Missverständnissen über gemeinschaftliche oder besondere Besitzrechte und Ansprüche oder über Ausübung der Gerichtbarkeit auf diesen Inseln vorzubeugen, sind übereingekommen, Alles dies durch eine besondere Convention zu ordnen und festzulegen. Nachdem zwischen den Regierungen Deutschlands und Englands, mit Übereinstimmung derjenigen der Vereinigten Staaten, über ihre wechselseitigen Rechte und Interessen an diesen Inseln bereits ein Uebereinkommen getroffen worden ist, haben die drei vorgenannten Mächte im Hinblick auf das vorerwähnte Ziel nachstehende Bevollmächtigte ernannt:

Der Präsident der Vereinigten Staaten von Amerika den Staatssekretär der Vereinigten Staaten The Honorable John Hay;

Seine Majestät der Deutsche Kaiser, König von Preussen, Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter, Wirklichen Geheimen Rath, Dr. von Holleben;

Ihre Majestät die Königen des Vereinigten Königreichs von Grossbritannien und Irland Allerhöchstihren ausserordentlichen und bevollmächtigten Botschafter The Right Honorable Lord Pauncefote of Preston, G. C. B., G. C. M. G.; welche nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten folgende Bestimmungen vereinbart und ausgemacht haben:

ARTIKEL I.

Die von den vorgenannten Mächten am 14. Juni 1889 in Berlin abgeschlossene und unterzeichnete Generalacte wird hiermit aufgehoben; desgleichen werden alle dieser Acte vorausgegangenen Verträge, Abkommen und Vereinbarungen aufgehoben.

ARTIKEL II.

Deutschland verzichtet zu Gunsten der Vereinigten Staaten von Amerika auf alle seine Rechte und Ansprüche an der Insel Tutuila und an allen anderen östlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

In gleicher Weise verzichtet Grossbritannien zu Gunsten der Vereinigten Staaten von Amerika auf alle seine Rechte und Ansprüche an der Insel Tutuila und an allen anderen östlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

In gleicher Weise verzichten die Vereinigten Staaten von Amerika zu Gunsten Deutschlands auf alle ihre Rechte und Ansprüche auf die Inseln Upolu und Savaii und alle anderen westlich des 171sten Längengrades westlich von Greenwich gelegenen Inseln der Samoa-Gruppe.

ARTIKEL III.

Es wird ausdrücklich ausgemacht und vereinbart, dass jede der dreiunterzeichneten Mächte auch fernerhin für ihren Handel und ihre Handelsschiffe in allen Inseln der Samoa-Gruppe die gleichen Vorrechte und Zugeständnisse geniessen soll, welche die Souveräne Macht in allen den Häfen geniesst, die dem Handel einer dieser Mächte offen stehen.

ARTIKEL IV.

Die vorliegende Convention soll sobald als möglich ratifizirt werden und unmittelbar nach Austausch der Ratifikationen in Kraft treten.

Zu Urkund dessen haben die Unterzeichneten sie vollzogen und ihre Siegel begedrückt.

So geschehen in dreifacher Ausfertigung zu Washington, den 2. Dezember 1899.

JOHN HAY	[SEAL.]
HOLLEBEN	[SEAL.]
PAUNCEFOTE.	[SEAL.]

And whereas the said Convention has been duly ratified on the part of each Government and the ratifications of the three Governments were exchanged in the Cities of Washington, Berlin and London on the sixteenth day of February, one thousand nine hundred, in the following manner, to wit, each Government handing to the Ambassadors of the other two, at its capital, its ratification:

Now, therefore, be it known, that I, William McKinley, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done in the City of Washington, this sixteenth day of February, in the year of Our Lord one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY

Secretary of State.

Mr. Tower to Mr. Hay.

BRITISH EMBASSY,
Newport, R. I., September 18, 1899.

SIR: By notes exchanged on the 23d ultimo, the Marquis of Salisbury and the imperial German ambassador in London, embodied the terms of the agreement concluded between Her Majesty's Government and the German Government for referring to the arbitration of the King of Sweden and Norway all claims put forward by British subjects of Germans in Samoa, whether individuals or companies, for compensation on account of losses which they allege that they have suffered in consequence of unwarranted military action on the part of British or German officers between the 1st of January last and the arrival of the joint commission.

On the 24th ultimo it was decided by the two Governments that the British and German representatives at Washington should be instructed to bring the agreement to the knowledge of the United States Government, and request them to join in it.

The following bases proposed by the German Government to carry into effect the agreement have been accepted by Her Majesty's Government:

All claims put forward by Germans or British subjects, respectively, whether individuals or companies, for compensation on account of losses which they allege that they have suffered in consequence of unwarranted military action on the part of British or German officers between the 1st of January last and the arrival of the joint commission in Samoa, shall be decided by arbitration in conformity with the principles of international law or considerations of equity.

The two Governments shall request His Majesty the King of Sweden and Norway to accept the office of arbitrator. It shall also be decided by this arbitration whether, and eventually to what extent, either of the two Governments is bound, alone or jointly with the other, to make good these losses.

Moreover, either of these two Governments may, with the consent of the other previously obtained in every case, submit to the King for arbitration similar claims of persons not being natives who are under the protection of that Government, and who are not included in the above-mentioned categories.

I have now the honor, under instructions from the Marquis of Salisbury, to inform you of the agreement concluded between the two countries, and, should the principle involved be acceptable to you, to invite your Government to adhere to the arrangement which I have quoted above.

I have, etc.,

REGINALD TOWER.

TUT—S

Mr. von Mumm to Mr. Hay.

GERMAN EMBASSY,
Washington, September 19, 1899.

MR. SECRETARY: In an exchange of notes on the 23d of last month, the Imperial German and the Royal British Governments have agreed to decide by arbitration the question of indemnity pending between them with regard to the occurrences in Samoa, and, to that end, to request His Majesty the King of Sweden and Norway to act as arbiter in the case.

In accordance with my instructions, I have the honor to notify your excellency of this fact, and to request the United States Government to cooperate in it.

The note sent by Count von Hatzfeldt to Lord Salisbury is of the following tenor:

All claims for indemnity for damages presented by German or British subjects, whether individuals or companies, and which damages they claim to have been subjected to in consequence of unjustifiable military action on the part of English or German officers during the period from January 1 of this year up to the day of the arrival of the commission at Samoa, shall be decided by an arbitral award to be rendered in accordance with the principles of law or the requirements of justice. His Majesty the King of Sweden and Norway is requested by both Governments to undertake the office of arbiter. This award shall further decide whether either of the two Governments, alone or in conjunction with the other, shall pay such indemnities; and if so, to what amount. Each of the two Governments shall, however, have the right, after securing in each case the previous assent of the other Government, to submit to the King's decision, at the same time, similar claims presented by persons, not natives, who are under the protection of either of the two powers, and who do not belong to the classes above mentioned.

Your excellency would greatly oblige me by informing me whether the United States Government is willing to declare its adhesion to the principle involved in the contents of this note, and to cooperate in the matter with the two Governments mentioned.

In the latter case I would have the honor, with the expectation of receiving a reply of the same report, to hand to your excellency a note of the following tenor:

MR. SECRETARY OF STATE:

All claims presented by Germans, American citizens, or British subjects, whether by individuals or companies, for indemnities for damages which they claim to have been subjected to in consequence of the unjustifiable military action of American, English, or German officers during the period from January 1 of this year up to the day of the arrival of the commission in Samoa, shall be decided by an arbitral award to be rendered in accordance with the principles of law or the requirements of justice.

His Majesty the King of Sweden and Norway will be requested by the three Governments to undertake the office of arbiter. This award shall further decide whether either of the three Governments, alone or in conjunction with one of the other Governments, or in conjunction with both the other Governments, shall pay such indemnities; and if so, to what amount.

Each of the three Governments shall, however, have the right, after securing in each case the previous assent of the other Governments, to submit to the King's decision at the same time similar claims presented by persons, not natives, who are under the protection of either of the three powers, and who do not belong to the classes above mentioned.

Your excellency would greatly oblige me by notifying me of the adhesion of the United States Government to the foregoing points.

Accept, etc.,

A. V. MUMM.

Mr. Hill to Mr. Tower.

No. 1566.]

DEPARTMENT OF STATE,
Washington, September 21, 1899.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, stating that by notes exchanged on the 23d ultimo the Marquis of Salisbury and the Imperial German ambassador at London concluded an agreement between Her Britannic Majesty's Government and the German Government for referring to the arbitration of the King of Sweden and Norway all claims put forward by British subjects or Germans for damages suffered by them by reason of the late disturbances in Samoa, and you state, furthermore, that on the 24th ultimo it was decided by the two Governments that the British and German representatives at Washington should be instructed to bring the agreement in question, a copy of which is embodied in your note, to the knowledge of the United States Government, and to request it to join in the same.

In reply I beg to inform you that the matter will have the early consideration of this Government.

I have, etc.,

DAVID J. HILL,
Acting Secretary.

(Same reply to note of September 19, 1899, from German ambassador.)

Convention between the United States of America, Germany, and Great Britain, relating to the settlement of certain claims in Samoa by arbitration.

[Signed at Washington, November 7, 1899; ratified by the Emperor, February 18, 1900; ratification advised by the Senate, February 21, 1900; ratified by the Queen, February 22, 1900; ratified by the President, March 5, 1900; ratifications exchanged, March 7, 1900; proclaimed, March 8, 1900.]

WILLIAM MCKINLEY,

PRESIDENT OF THE UNITED STATES OF AMERICA:

To All to Whom these Presents shall come, Greeting:

Know Ye, that whereas a Convention between the United States of America, Germany and Great Britain, relating to the settlement of certain claims in Samoa by arbitration, was concluded at Washington, on the seventh of November, one thousand eight hundred and ninety-nine, the original of which Convention, being in the English and German languages, is word for word as follows:

CONVENTION.

ABKOMMEN.

RELATING TO THE SETTLEMENT OF CERTAIN
CLAIMS IN SAMOA BY ARBITRATION.

BEHUFSS SCHIEDSGERICHTLICHER REGELUNG
GEWISSER SCHADENERSATZ-ANSPRÜCHE
AUF SAMOA.

The President of the United States of America, His Majesty the German Emperor, King of Prussia, in the name of the German Empire, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, being desirous of effecting a prompt and satisfactory settlement of the claims of the citizens and subjects of their respective countries resident in the Samoan Islands on account of recent military operations conducted there, and having resolved to conclude a

Der Präsident der Vereinigten Staaten von Amerika, Seine Majestät der Deutsche Kaiser, König von Preussen, im Namen des Deutschen Reiches, und Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland, geleitet von dem Wunsche, die durch die jüngst auf den Samoa-Inseln staatgefundenen militärischen Aktionen veranlassenen Schadens-Ersatz-Ansprüche der dortselbst ansässigen Angehörigen der beteiligten Reiche und Staaten baldigst und

Convention for the accomplishment of this end by means of arbitration, have appointed as their respective plenipotentiaries:

The President of the United States of America, The Honorable John Hay, Secretary of State of the United States;

His Majesty the German Emperor, King of Prussia, His Minister in Extraordinary Mission, *Dr. Jur.* Mumm von Schwarzenstein, Privy Councilor of Legation; and

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Mr. Reginald Tower, Her Britannic Majesty's Chargé d'Affaires *ad interim*;

Who, after having communicated to each other their full powers, which were found to be in due and proper form, have agreed to and concluded the following articles:

ARTICLE I.

All claims put forward by American citizens or Germans or British subjects respectively, whether individuals or companies, for compensation on account of losses which they allege that they have suffered in consequence of unwarranted military action, if this be shown to have occurred, on the part of American, German or British officers between the first of January last and the arrival of the Joint Commission in Samoa shall be decided by arbitration in conformity with the principles of International Law or considerations of equity.

ARTICLE II.

The three Governments shall request His Majesty the King of Sweden and Norway to accept the office of Arbitrator. It shall also be decided by this arbitration whether, and eventually to what extent, either of the three Governments is bound, alone or jointly with the others, to make good these losses.

ARTICLE III.

Either of the three Governments may, with the consent of the others, previously obtained in every case, submit to the King for arbitration, similar claims of persons not being natives, who are under the protection of that Government, and who are not included in the above mentioned categories.

allseitig zufriedenstellend zu erledigen, und entschlossen, ein Abkommen behufs schiedsgerichtlicher Regelung dieser Fragen abzuschliessen, haben zu Ihren Bevollmächtigten ernannt:

Der Präsident der Vereinigten Staaten von Amerika den Staatssekretär der Vereinigten Staaten, The Honorable John Hay;

Seine Majestät der Deutsche Kaiser, König von Preussen, Allerhöchstihren Gesandten in ausserordentlicher Mission, den Geheimen Legationsrath *Dr. Jur.* Mumm von Schwarzenstein;

Ihre Majestät die Königin des Vereinigten Königreichs von Grossbritannien und Irland Allerhöchstihren Geschäftsträger *ad interim*, Mr. Reginald Tower; welche nach gegenseitiger Mittheilung ihrer in guter und gehöriger Form befundenen Vollmachten, folgende Bestimmungen vereinbart und ausgemacht haben:

ARTIKEL I.

Alle Ansprüche, welche von Amerikanischen Bürgern, von Deutschen oder von Britischen Unterthanen und zwar sowohl von Einzelpersonen wie auch von Gesellschaften, wegen Ersatzes von Schäden geltend gemacht werden, welche sie in Folge der ungerechtfertigten militärischen Aktion amerikanischer, deutscher oder englischer Offiziere, sofern eine solche nachgewiesen wird, in dem Zeitabschnitt vom 1. Januar d. J. bis zu dem Tage erlitten zu haben vorgeben, am welchem die Ankunft der Kommission auf Samoa erfolgt ist, sollen durch einen nach Grundsätzen des Rechts oder nach Erwägungen der Billigkeit zu fallenden Schiedsspruch erledigt werden.

ARTIKEL II.

Seine Majestät der König von Schweden und Norwegen wird seitens der drei Regierungen ersucht werden, das Amt des Schiedsrichters anzunehmen. Durch diesen Schiedsspruch soll ferner entschieden werden, ob die eine oder die andere der drei Regierungen, allein oder in Verbindung mit einer der anderen Regierungen, oder in Verbindung mit beiden anderen Regierungen diese Schäden zu ersetzen hat und eventuel in welchem Umfange.

ARTIKEL III.

Jeder der drei Regierungen soll es, nachdem sie in jedem Falle die vorhergehende Zustimmung der anderen Regierungen erlangt hat, gestattet sein, dem Schiedsspruche des Königs auch ähnliche Ansprüche von solchen nicht eingeborenen Personen zu unterbreiten, welche unter dem Schutze der betreffenden Macht stehen und nicht den oben erwähnten Kategorien angehören.

ARTICLE IV.

ARTIKEL IV.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the German Emperor, King of Prussia; and by Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; and the ratifications shall be exchanged at Washington four months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in triplicate at Washington the seventh day of November, one thousand eight hundred and ninety-nine.

Das gegenwärtige Abkommen soll von dem Präsidenten der Vereinigten Staaten von Amerika unter Zuziehung und mit Zustimmung des Senates der Vereinigten Staaten, von Seiner Majestät dem Deutschen Kaiser, König von Preussen und von Ihrer Majestät der Königin des Vereinigten Königreichs von Grossbritannien und Irland ratifizirt werden; und die Ratifikationsurkunden sollen in vier Monaten von dem heutigen Tage an gerechnet oder wenn möglich früher in Washington ausgetauscht werden.

Zu Urkund dessen haben wir, die unterfertigten Bevollmächtigten, dieses Abkommen unterzeichnet und unsere Siegel beigedrückt.

So geschehen in dreifacher Ausfertigung zu Washington den siebenten November eintausendachthundertneunundneunzig.

JOHN HAY	[SEAL.]
A v MUMM	[SEAL.]
REGINALD TOWER	[SEAL.]

And Whereas the said Convention has been duly ratified on the three parts and the ratifications of the three Governments were exchanged in the City of Washington on the seventh day of March, one thousand nine hundred:

Now, Therefore, be it known that I, William McKinley, President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In Witness Whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this eighth day of March in the year of our Lord
 [SEAL.] one thousand nine hundred, and of the Independence of the United States the one hundred and twenty-fourth.

WILLIAM MCKINLEY

By the President:

JOHN HAY
Secretary of State.



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